

LEICESTERSHIRE
COUNTY COUNCIL
CONSTITUTION

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Part 1

Summary and Explanation

Part 1 - Summary and Explanation

County Council's Constitution

1. This Constitution was formally adopted by the County Council on 11 April 2001. It sets out how the County Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the County Council to choose. The Constitution is divided into 16 Articles which set out the basic rules governing the County Council's business. The Articles refer to more detailed procedures and Codes of Practice which are provided in separate Rules and Protocols in the later parts of the document. The Notes in italics do not form part of the Constitution.

What the Constitution covers

2. Article 1 of the Constitution commits the County Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations, to take decisions efficiently and effectively, to hold decision-makers to public account, and to improve the delivery of services to the community. Articles 2 to 16 explain the rights of citizens and how the key parts of the County Council operate. These are:
 - Members of the County Council (Article 2).
 - Citizens and the County Council (Article 3).
 - The full County Council (Article 4).
 - Chairing the County Council (Article 5).
 - Overview and scrutiny committees (Article 6).
 - The Executive (Article 7).
 - The Health and Wellbeing Board (Article 7A).
 - Regulatory boards and other committees (Article 8).
 - The Corporate Governance Committee (Article 9).
 - Area committees and forums (Article 10).
 - Joint arrangements (Article 11).
 - Officers (Article 12).
 - Decision making (Article 13).
 - Finance, contracts and legal matters (Article 14).
 - Review and revision of the Constitution (Article 15).
 - Suspension, interpretation and publication of the Constitution (Article 16).

The County Council

3. The County Council is composed of 55 county councillors elected every four years. County councillors are democratically accountable to residents of their electoral division. The overriding duty of county councillors in their representational role is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The County Council has adopted a Code of Conduct dealing with the conduct that is expected of members when acting in that capacity.
4. All county councillors meet together as the full County Council. Meetings of the full County Council are normally open to the public. Here county councillors decide the County Council's overall policies and set the Budget (which includes the annual revenue budget and capital programme) each year. The full County Council also approves the Policy Framework which comprises a series of major Plans. The Executive has to work within the Budget and Policy Framework approved by the County Council. The County Council can approve (or reject) any proposals from the Executive for action which is outside the Budget or Policy Framework.

The Leader, Cabinet and Executive

5. The County Council appoints the Leader who in turn appoints the Cabinet. Cabinet members are designated Lead Members with responsibility for particular activities of the Council. The Council holds these members to account through Question Time and debating periodic Position Statements made by the Leader and other members of the Cabinet. The Leader will usually be the leader of the largest political group on the County Council. The Leader and the other members of the Cabinet together constitute the "Executive", which is the term used in the remainder of this Constitution. In the Articles and Rules which follow, the word "Executive" can be taken, in practice, to mean the Cabinet, whenever a meeting is involved.
6. Because the Leader is appointed by the full County Council, he or she is first and foremost the "Leader of the Council" - that is, having the political support of a majority of the County Council and, as such, leading the County Council forward and performing an important role in the County Council's external relations with other local authorities and local, regional and national organisations.
7. The Leader also has another, more internal, role as "Leader of the Executive" - that is, carrying the responsibilities and powers given to him or her by the Local Government Act 2000 and leading the work of the Executive.

8. The Leader will appoint one of the other members of the Cabinet as a Deputy Leader who will act in the Leader's place and preside at meetings of the Cabinet where the Leader is absent, in accordance with the law and the meeting procedure rules.

Non-executive members

9. Those county councillors who are not members of the Executive make a contribution to the operation of the County Council through membership of the County Council's committees (some of which are called "boards") - in the "Regulatory" and "Overview and Scrutiny" areas. The boards and committees in the Regulatory area will take decisions on "non-executive" functions (such as licensing, planning, elections and members' code of conduct and allowances) which are outside the scope of the Executive. Many of the day-to-day decisions within the Regulatory area will, in practice, be taken by professional officers acting in accordance with published schemes of delegation but ultimately still accountable to the relevant board or committee or the full County Council, depending on the decision involved.
10. In addition to approving the Policy Framework and Budget at the full County Council, county councillors may also contribute to policy formulation and review through membership of panels as mentioned in the Overview and Scrutiny section below.

How executive decisions are made

11. The Executive is the part of the County Council which is responsible for the more important executive decisions needed to implement the Policy Framework and Budget approved by the County Council. The Executive must consist of not fewer than three and not more than ten members – the Leader, Deputy Leader (if one is appointed) and the Cabinet. The Council may decide to appoint members to provide support and assistance to particular Cabinet Members. These are known as Cabinet Support Members and are not themselves members of the Executive.
12. The County Council has established a Health and Wellbeing Board as a Subcommittee of the Executive. It is responsible for producing the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy and can also carry out such other functions as the Executive may permit.
13. Many day-to-day decisions are, in fact, taken by professional officers acting in accordance with published schemes of delegation but ultimately still accountable either to the Executive or the full County Council, depending upon the type of decision involved.
14. The Executive has to make decisions which are in line with the County Council's overall policies and budget. If it wishes to make a decision which is

outside the Budget or Policy Framework, this must be referred to the County Council as a whole to decide.

15. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be made at a meeting of the Executive, with professional officers present, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. In the case of all personal or confidential matters to be discussed, these will be included in the Forward Plan as far as can be anticipated.

[Note: In adopting this Constitution the County Council went further than this: it decided, with the concurrence of the then Executive, that meetings of the Executive where any executive decisions (whether or not they are major) are to be taken, will generally be open to the public to attend, except where personal or confidential matters are being discussed. This is reflected in Article 7.06(a) in Part 2.

In addition, the County Council also decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting of the Cabinet or by professional officers under the published schemes of delegation. This is reflected in Article 7.08 in Part 2]

Overview and Scrutiny

16. A number of Overview and Scrutiny bodies have been established in relation to the activities of the County Council, in accordance with the provisions of the Local Government Act 2000. Some bodies also exercise functions in relation to the National Health Service in the County under the Health and Social Care Act 2001. The operation of these bodies is described in paragraphs 17 to 22 below.
17. Social Services authorities such as the County Council are required to establish arrangements to review and scrutinise matters relating to the Health Services in the Authority's area and to make reports and recommendations.
18. There are a number of standing (i.e. permanent) overview and scrutiny committees including the Scrutiny Commission. These overview and scrutiny committees support the Executive and the County Council as a whole. The Health Overview and Scrutiny Committee has the task of scrutinising health bodies in the County.
19. The County Council will establish a joint committee with other Social Services Authorities to scrutinise any health issue or consultation which has an impact on

an administrative area larger than the County Council where it considers it necessary or it is required to do so.

20. Scrutiny Committees allow citizens to have a greater say in County Council matters and things which the County Council is able to influence because at their meetings citizens may ask questions and present petitions provided that they have followed the correct procedures. The Committees produce reports which advise the Executive and the County Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Executive. The Health Overview and Scrutiny Committee is able to make recommendations on a health service matter to the County Council who in turn may refer the matter to the Secretary of State.
21. In the case of County Council activities, members of the Scrutiny Commission can “call in” a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsiders the decision, although the final decision will still remain with the Executive. They may also be consulted by the Executive or the County Council on forthcoming decisions and the development of policy.
22. At any one time, there are a number of *ad hoc* (i.e. temporary) review panels which carry out specifically targeted reviews on issues identified as requiring special attention. These review panels are wound up once they have completed their work; other new review panels, with new remits, take their place. The purpose of these panels is not to exercise any formal powers associated with overview and scrutiny (which are the preserve of the overview and scrutiny committees) but to contribute to and inform the overview and scrutiny process. The panels, therefore, do not constitute formal committees; however, their final reports are submitted to the relevant overview and scrutiny committee for approval prior to their submission to the executive and/or relevant partnership body.

The County Council's Staff

23. The County Council has people working for it (called ‘officers’) to give advice, implement decisions and manage the day-to-day delivery of its services. Some professional officers have a specific duty to ensure that the County Council acts within the law and uses its resources wisely. The Codes in Part 5 of this Constitution govern the relationships between officers and members of the County Council.

24. Officers may be authorised, either by the County Council, the Executive or a board/committee in the Regulatory area, to take decisions. The scope of these delegated powers is defined in the general scheme of delegation approved by the County Council and in the record of specific delegations made in further decisions of the County Council, the Executive and the boards and committees in the Regulatory area. All of these are published and appear in Part 9 of this Constitution.

Citizens' Rights

25. Citizens have a number of rights in their dealings with the County Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the County Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.
26. Where members of the public use specific County Council services, for example as a parent of a school pupil, they may have additional rights. These are not covered in this Constitution.
27. Citizens have the right to:
- vote at local elections if they are registered;
 - contact their local county councillor about any matters of concern to them;
 - obtain a copy of the Constitution;
 - attend meetings of the County Council and its committees except where, for example, personal or confidential matters are being discussed;
 - petition to request a referendum on a mayoral form of Executive;
 - participate in question time at meetings of the standing overview and scrutiny committees and the boards and committees in the Regulatory area;
 - submit petitions to standing overview and scrutiny committees, the boards and committees in the Regulatory area, and, where fixed signatory thresholds are achieved, require senior officers to give evidence at a standing overview and scrutiny committee or prompt a debate at a meeting of the full County Council;
 - find out, from the Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when (Rule 14 in Part 4B);
 - attend meetings of the Executive where Key Decisions are being discussed or decided (Rule 12 in Part 4B);
 - see agendas, reports and background papers, and any record of decisions made by the County Council and Executive (Rules 5 to 8 in Part 4B);
 - find out, from the Forward Plan, what confidential or private matters are to be discussed or decided by the Executive;

- make representations to the County Council on why an exempt matter to be considered by the Cabinet should be considered in public, rather than in private.
 - complain to the County Council about the services which it provides, in accordance with its Corporate Complaints Procedure;
 - complain to the Ombudsman if they think the County Council has not followed its procedures properly. However, they should only do this after using the County Council's own Complaints Procedure;
 - complain to the Monitoring Officer if they have evidence which they think shows that a county councillor has not followed the County Council's Code of Conduct; and
 - inspect the County Council's accounts and make their views known to the external auditor.
28. The County Council welcomes participation by its citizens in its work. Further information on a citizen's rights in relation to the County Council can be obtained from the Chief Executive's Department at County Hall, Glenfield, Leicester, LE3 8RA. Telephone 0116 305 2583. Email - Democracy@leics.gov.uk

[end of Part 1]

Part 2

Articles of the Constitution

Part 2 - Articles of the Constitution

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Part 2 - Articles of the Constitution

ARTICLE 1

The Constitution

1.01 Powers of the County Council

The County Council, as a corporate body, will exercise all its powers and duties in accordance with the law and this Constitution.

1.02 The Constitution

This Constitution, and its various Parts, (but excluding any explanatory Notes which appear in italics) is the Constitution of Leicestershire County Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the County Council to choose between different courses of action, the County Council will always choose that option which it thinks is closest to the purposes stated above. The County Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

ARTICLE 2***Members of the County Council*****2.01 Composition and eligibility**

- (a) **Composition.** The County Council will comprise 55 members, otherwise called County Councillors. County Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Electoral Commission.
- (b) **Eligibility.** Only registered voters of the County area or those living or working there will be eligible to hold the office of county councillor.

2.02 Election and terms of county councillors

The regular election of county councillors will normally be held on the first Thursday in May every four years beginning in 2001. The terms of office of county councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and functions of all county councillors

- (a) The overriding duty of county councillors in their representational role is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- (b) **Key roles.** All county councillors will:
1. act in the capacity to which they were elected to the County Council and not speak on behalf of any other local authority whilst acting as a County Councillor;
 2. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 3. contribute to the good governance of the County and actively encourage community participation and citizen involvement in decision-making;
 4. represent their communities and bring the views of those communities into the County Council's decision-making process, i.e. become the advocate of and for their communities;
 5. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 6. balance different interests identified within the electoral division and represent the electoral division as a whole;
 7. respond to constituents' enquiries and representations, fairly and impartially;
 8. be available to represent the County Council on other bodies; and
 9. maintain the highest standards of conduct and ethics;
 10. fulfil their responsibilities as a corporate parent for children and young people in the care of the local authority.

(c) Rights and duties:

1. County councillors will have such rights of access to such documents, information, land and buildings of the County Council as are necessary for the proper discharge of their functions and in accordance with the law.
2. County councillors will not make public information which is confidential or exempt without the consent of the County Council or divulge information given in confidence to anyone other than a county councillor or officer entitled to know it.
3. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4B of this Constitution.

2.04 Conduct

County councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

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

ARTICLE 3***Citizens and the County Council*****3.01 Citizens' rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4B of this Constitution:

- (a) **Voting and referendum petitions.** Citizens on the electoral roll for the County have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 1. attend meetings of the County Council and its committees except where confidential or exempt information is likely to be disclosed and a decision is made that in the public interest the matter is to be dealt with in private;
 2. attend meetings of the Cabinet except where confidential or exempt information is likely to be disclosed and a decision is made that in the public interest the matter is to be dealt with in private;
 3. challenge the decision for the Executive to consider a matter in private where this has been listed on the Forward Plan.

- (c) **Participation.** Providing that they follow the correct procedure, citizens have the right to:-
1. participate in question time at meetings of the standing overview and scrutiny committees and the boards and committees in the Regulatory area;
 2. submit petitions to standing overview and scrutiny committees, the boards and committees in the Regulatory area, and, where fixed signatory thresholds are achieved, require senior officers to give evidence at a standing overview and scrutiny committee or prompt a debate at a meeting of the full County Council.
- (d) **Complaints.** Citizens have the right to complain to:
1. the County Council itself under its Corporate Complaints Procedure;
 2. the Ombudsman after using the County Council's own complaints scheme;
 3. the Council's Monitoring Officer about a breach of the County Council's Members' Code of Conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to county councillors or officers and must not wilfully harm things owned by the County Council, county councillors or officers.

ARTICLE 4 ***The full County Council***

4.01 Meanings

- (a) **Policy Framework.** The Policy Framework means the Plans and Strategies listed in Schedule 2 to these Articles. *[Note: the Plans listed in the note following Schedule 2 will not require the approval of the full County Council and will not, therefore, form part of the Policy Framework].*
- (b) **Budget.** The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the County Council tax base, setting the County Council tax and decisions relating to the control of the County Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.02 Functions of the full County Council

Only the full County Council will exercise the following functions:

- (a) adopting and changing the Constitution except in respect of changes made by the Chief Executive in accordance with Article 15;
- (b) approving or adopting the Policy Framework and the Budget;

- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4B of this Constitution, making decisions about any matter discharging an Executive function which is covered by the Policy Framework or the Budget where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget;
- (d) appointing the Leader and Cabinet Support Members;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the County Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the County Council decides should be undertaken by itself rather than the Executive;
- (l) consider possible referrals to the Secretary of State in relation to Health Service issues; and
- (m) all other matters which, by law, must be reserved to County Council.

4.03 County Council meetings

There are three types of County Council meeting:

- (a) the Annual Meeting;
- (b) ordinary meetings (including the Budget Meeting); and
- (c) extraordinary meetings,

and they will be conducted in accordance with the Meeting Procedure Rules (Standing Orders) in Part 4A of this Constitution.

4.04 Responsibility for functions

The County Council will maintain the information in Part 3 of this Constitution setting out the responsibilities for the County Council's functions which are not the responsibility of the Executive. Part 9 of this Constitution sets out the responsibilities for such functions delegated to officers either under the general scheme of delegation to officers or as the result of specific decisions.

ARTICLE 5
Chairing the County Council

5.01 Role and function of the Chairman

The Chairman and Vice-chairman will be elected by the County Council annually. The Chairman and, in his or her absence, the Vice-chairman, will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the County Council so that its business can be carried out efficiently and with regard to the rights of county councillors and the interests of the community;
- (c) to ensure that the County Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
- (d) to promote public involvement in the County Council's activities;
- (e) to be the conscience of the County Council;
- (f) to undertake such civic and ceremonial functions as he or she determines appropriate, subject to any decisions and directions determined by the County Council;
- (g) to give consent to an urgent decision of the Executive outside the Budget and Policy Framework under Rule 6 of the Budget and Policy Framework Procedure Rules in Part 4C of this Constitution; and
- (h) to give consent to an urgent decision otherwise subject to call-in under Rule 15 of the Overview and Scrutiny Procedure Rules in Part 4E of this Constitution.

ARTICLE 6
Overview and scrutiny committees

6.01 Terms of Reference

The County Council will appoint the overview and scrutiny committees and subcommittees set out in Table A in Schedule 3 to discharge the functions conferred on the County Council in accordance with the legislation in force for the time being.

6.02 Proceedings of overview and scrutiny committees

Overview and scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4E of this Constitution.

6.03 General role

Within their terms of reference, overview and scrutiny committees will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the County Council's functions or relating to the health service in the County, as appropriate;
- (b) make reports and/or recommendations to the full County Council and/or the Executive and/or any joint or area committee in connection with the discharge of any County Council functions;
- (c) in the case of scrutiny committee(s) with the function of scrutinising the health service, such committee(s) may make reports and recommendations to relevant NHS bodies and relevant health service providers, the County Council, Rutland Council, District Councils and in appropriate circumstances, refer matters to the County Council who in turn may make referrals to the Secretary of State;
- (d) consider any matter affecting the County or its inhabitants; and
- (e) exercise the right to call-in, for reconsideration, key decisions made but not yet implemented by the Executive and/or any policy or area committees.

6.04 Specific functions

- (a) **Policy development and review.** Overview and scrutiny committees may:
 1. assist the County Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
 2. conduct research, community and other consultation in the analysis of policy issues and possible options;
 3. consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 4. question members of the Executive and/or boards, committees and chief officers about their views on issues and proposals affecting the County; and
 5. liaise with other external organisations operating in the County, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Overview and scrutiny committees may:
 1. review and scrutinise the decisions made by and performance of the Executive and/or boards, committees and chief officers both in relation to individual decisions and over time;

2. review and scrutinise the performance of the County Council in relation to its policy objectives, performance targets and/or particular service areas;
 3. question members of the Executive and/or boards, committees and senior officers 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;
 4. make recommendations to the Executive and/or appropriate committee and/or County Council arising from the outcome of the scrutiny process;
 5. review and scrutinise matters relating to the planning, provision and operation of health services in the area of the County, as set out in Article 6.08 below;
 6. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
 7. question and gather evidence from any person (with their consent).
- (c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** Overview and scrutiny committees (or the Scrutiny Commission in a single report on their behalf) will report annually to full County Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6.05 Chairman of Scrutiny Commission

The Chairman of the Scrutiny Commission will be the Leader of the largest opposition group. Where there are two opposition groups with an equal number of seats, chairmanship of the Scrutiny Commission shall rotate between those groups on an annual basis, normally effective from the annual meeting of the Council. Unless agreement is reached otherwise, the order in which the Chairmanship is allocated between the opposition groups will be determined by the toss of a coin.

6.06 Membership of the Scrutiny Commission

The membership of the Scrutiny Commission, which will reflect the political balance of the Council, will include the following positions:-

Four Commissioners, one of whom will be the Chairman determined in accordance with paragraph 6.05 above.

The Chairman of the Adults and Communities Overview and Scrutiny Committee

The Chairman of the Children and Families Overview and Scrutiny Committee

The Chairman of the Highways and Transport Overview and Scrutiny Committee

The Chairman of the Environment and Climate Change Overview and Scrutiny Committee

The Chairman of the Health Overview and Scrutiny Committee

Such other members as may be necessary to achieve political balance.

6.07 Call-in Procedure

The Call-in procedure described in the Overview and Scrutiny Procedure Rules in Part 4E of the Constitution requires that at least two people who are members of the Scrutiny Commission should concur with it being invoked.

6.08 Health Service functions

(a) General Role

Health overview and scrutiny committees will act as a lever to improve the health of local people, ensuring that the needs of local people are considered as an integral part of the delivery and development of health services. A committee may review and scrutinise any matter relating to the planning, provision and operation of health services in the area of the County Council, including:-

- (i) arrangements made by relevant NHS bodies or relevant health service providers to secure hospital and community health services for the inhabitants of the area and the services that are provided;
- (ii) arrangements made for public health, health promotion and health improvement (including addressing health inequalities) in the area;
- (iii) the planning of health services by relevant NHS bodies or relevant health service providers including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population;
- (iv) arrangements made by relevant NHS bodies or relevant health service providers for consulting and involving patients and the public under the duties placed upon them;
- (v) any matter referred to the committee by the local Healthwatch;

- (vi) responding to consultation from a relevant NHS body or relevant health service provider on a particular issue including proposals for a substantial development of the health service or a substantial variation in the provision of such service (in the latter circumstance it may be necessary for the response to be made through a joint overview and scrutiny committee).

(b) Process

In carrying out the review and scrutiny of a particular matter, a health overview and scrutiny committee:-

- (i) shall have regard to any guidance issued by the Secretary of State with regard to these functions;
- (ii) shall invite interested parties to comment on the matter;
- (iii) shall take account of relevant information available to it and in particular relevant information provided by any interested parties and the local Healthwatch organisation;
- (iv) may seek further information from a local NHS body;
- (v) may require the attendance of a member or officer of a relevant NHS body or relevant health service provider to answer such questions as appear to the committee to be necessary for discharging its functions, subject to providing reasonable notice to that person;
- (vi) may require the attendance of an executive member or officer of the County Council;
- (vii) may question and gather evidence from any other person with their consent;
- (viii) may conduct research and undertake its own consultations;
- (ix) would normally be expected to produce an annual overview and scrutiny plan;
- (x) may make reports and recommendations to relevant NHS bodies and relevant health service providers, the County Council, Rutland Council, District Councils and in appropriate circumstances to the County Council who may in turn refer the matter to the Secretary of State.

6.09 Joint Committee

- (a) The County Council will establish a joint committee with other Social Services Authorities to scrutinise any health issue or consultation which has an impact on an administrative area larger than the County Council

where it considers it necessary or it is required to do so. Where it is not considered appropriate or possible to establish a joint committee the Overview and Scrutiny Committee responsible for the scrutiny of health services in the area of the County will carry out this role.

- (b) The Joint Committee shall not have the power to refer any matters to the Secretary of State. Where the Joint Committee considers a matter should be referred, it must make a report and recommendation to that effect to the appointing authorities for action as they consider appropriate.

ARTICLE 7

The Executive

7.01 Role

The Executive will carry out all of the County Council's functions which are not the responsibility of any other part of the County Council, whether by law or under this Constitution.

7.02 Form and composition

The Executive will consist of the Leader together with at least two, but not more than nine, county councillors appointed to the Executive by the Leader of the County Council. When the Executive meets formally it will be referred to as the Cabinet.

The Chairman and Vice Chairman of the Council cannot be appointed to the Cabinet or as Cabinet Support Members.

7.03 Leader

The Leader will be a county councillor appointed to the position of Leader by the County Council. In addition to his or her significant role as Leader of the Council, the Leader will also act as Chairman of the Executive. The Leader will hold office until:

- (a) he or she resigns from the office; or
- (b) he or she is no longer a county councillor; or
- (c) he or she is removed from office by resolution of the County Council; or
- (d) the Annual Meeting of the County Council next following his or her appointment.

7.04 Designation of Deputy Leader and Lead Members

The Leader of the Council will appoint one of the Executive Members to the position of Deputy Leader, who, in addition to their role as Deputy Leader will also act as Vice Chairman of the Cabinet.

The Leader will also designate two members of the Executive respectively to act as Lead Member for Children and Family Services and Lead Member for Adult Social Care.

The designation of members of the Executive to act as Lead Members for other purposes will be at the Leader's discretion.

7.05 Executive members

Executive members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer county councillors; or
- (c) they are removed from office, either individually or collectively, by the Leader of the County Council.

7.06 Proceedings of the Executive

(a) **Decision making meetings.** Any meeting of the Executive at which an executive decision is to be made, irrespective of whether or not that executive decision is a Key Decision, shall be held in public; provided that the Executive shall exclude the media and public if confidential information is likely to be disclosed or may exclude the media and public if exempt information is likely to be disclosed.

(b) **Meetings generally.** Subject to paragraph (a), proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4D of this Constitution.

7.07 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular Executive functions.

7.08 No delegation to individual members of the Executive

Individual members of the Executive (including the Leader and Deputy Leader) shall not be responsible for the exercise of any Executive functions. Executive functions may be exercised only by the Executive or by a committee of the Executive or by officers or by any area committee or under joint arrangements.

[Note: In adopting this Constitution, the County Council decided, with the concurrence of the then Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting of the Cabinet or by professional officers under the published schemes of delegation. Articles 7.06(a) and 7.08 reflect these decisions]

7.09 Cabinet Support Members

(a) The County Council may, if it considers it appropriate to do so, appoint such elected members as it considers appropriate to provide support and assistance to particular Cabinet Members. These members will be known as "Cabinet Support Members". Persons occupying such positions will not themselves be members of the Executive; neither will they be entitled to act

as a member of any Overview and Scrutiny Committee dealing with County Council functions.

- (b) Cabinet Support Members shall hold office until
 - (a) they resign from office; or
 - (b) they are no longer County Councillors; or
 - (c) they are removed from office, either individually or collectively, by resolution of the County Council; or
 - (d) the Annual Meeting of the County Council next following their appointment.

ARTICLE 7A

The Health and Wellbeing Board

7A.01 Health and Wellbeing Board

The County Council will appoint a Health and Wellbeing Board as a Subcommittee of the Executive to:-

- (a) Discharge directly the functions conferred on the County Council by Section 194 of the Health and Social Care Act 2012 or such other legislation as may be in force for the time being;
- (b) Carry out such other functions as the Executive may permit

[Note: The County Council's executive function of approving the Better Care Fund and Plans arising from its use has been delegated to the Health and Wellbeing Board.]

7A.02 Composition

- (a) The Health and Wellbeing Board shall have the following statutory members:-
 - (i) At least one County Councillor;
 - (ii) The Director of Adults and Communities;
 - (iii) The Director of Children and Family Services;
 - (iv) The Director of Public Health;
 - (v) A representative of the Local Healthwatch organisation;
 - (vi) A representative of the Integrated Care System.
- (b) The Health and Wellbeing Board shall appoint such additional persons to be members of the Board as it thinks appropriate.

7A.03 Role and Function

The Health and Wellbeing Board shall have the following general role and function:-

To lead and direct work to improve the health and wellbeing of the population of Leicestershire through the development of improved and integrated health and social care services. The Board is responsible for:-

- Preparing and publishing the Leicestershire Joint Strategic Needs Assessment (JSNA) in order to identify the needs and priorities across Leicestershire so that future commissioning/policy decisions are based on evidence.
- Preparing and publishing a Joint Health and Wellbeing Strategy and associated Plan on behalf of the County Council and its partners.
- Approving the Better Care Fund Plan.
- Publishing and refreshing the Pharmaceutical Needs Assessment to assess the need for pharmaceutical services across Leicestershire and providing an evidence base for future policy and commissioning decisions.
- In conjunction with all partners, communicating and engaging with local people on how they can achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing.
- Having oversight of the use of relevant public sector resources to identify opportunities for the further integration of health and social care services.

[Note: More details relating to the operation of the Health and Wellbeing Board are set out on the Board's full Terms of Reference which are published on the County Council website at

<https://www.healthandcareleicestershire.co.uk/health-and-wellbeing-board/>]

ARTICLE 8***Regulatory boards and other committees*****8.01 Regulatory boards and other committees**

The full County Council will appoint the committees set out in Part 3 of this Constitution, to discharge the functions described in that Part.

ARTICLE 9

The Corporate Governance Committee

9.01. Corporate Governance Committee

The full County Council will establish a Corporate Governance Committee.

9.02. Composition

- (a) The Corporate Governance Committee will reflect the political balance on the Council as a whole and may not include a member of the Executive or a Cabinet Support Member.
- (b) Up to two members of the Corporate Governance Committee will be non-voting independent members, appointed in accordance with the functions of the Constitution Committee as set out in Part 3 of this Constitution, subject to the Chairman of the Corporate Governance Committee also forming part of the appointment process.
- (c) The Lead Member of the Executive responsible for resources, performance management and risk management will be entitled to attend meetings in an observer/advisory capacity.

9.03 Role and Function

The Corporate Governance Committee shall have the following general role and functions:

Corporate Governance Matters

- (a) The promotion and maintenance within the Authority of high standards in relation to the operation of the Council's Code of Corporate Governance with a particular emphasis on ensuring:
 - (i) that an adequate risk management framework and associated control environment is in place;
 - (ii) that the Authority's financial and non financial performance is properly monitored;
 - (iii) proper oversight of the financial reporting processes.
- (b) To ensure that the Council's Code of Corporate Governance is reviewed and amended by the County Council as necessary to ensure that it remains relevant to the Council's work and practices.
- (c) To satisfy themselves that the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund have been prepared in accordance with best practice.

Standards of Conduct Matters

- (d) Promoting and maintaining high standards of conduct by members and co-opted members; assisting such members to observe the Members' Code of Conduct;
- (e) Advising the County Council on the adoption or revision of the Members' Code of Conduct;
- (f) Monitoring the operation of the Members' Code of Conduct;
- (g) Advising, training or arranging to train county councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (h) Granting dispensations to county councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (i) Making payments or providing other benefits in cases of maladministration under section 92 of the Local Government Act 2000;
- (j) Exempting members from vacation of office by failure to attend meetings;
- (k) Considering and determining representations seeking the removal of any LEA appointed school governor; and
- (l) Advising as necessary on the establishment of a local code of conduct for employees and procedures relating to the handling of complaints, including "whistleblowing".

9.04 Terms of Reference

The detailed terms of reference of the Corporate Governance Committee can be found in the Section on Responsibility for Functions contained in Part 3 of this Constitution.

ARTICLE 10

Area committees and forums

[Note: the County Council has yet to decide to appoint any area committees. The provisions in this Article will only have practical effect if and when area committees are appointed]

10.01 Area committees

- (a) The County Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision-making.

- (b) The County Council will consult with relevant borough, district, parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

10.02 Form, composition and function

- (a) **Table of area committees.** The County Council will appoint the area committees as set out in the first column of Table B in Schedule 3, composed as set out in the second column of that Table and with the terms of reference set out in the third column.
- (b) **Delegations.** The County Council and the Executive will include details of any delegations to area committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Executive and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

10.03 Conflicts of interest – membership of area committees and overview and scrutiny committees

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the county councillor concerned is a member, then the county councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Corporate Governance Committee.
- (b) **General policy reviews.** Where the overview and scrutiny committee is reviewing policy generally the member must declare his or her interest before the relevant agenda item is reached, but need not withdraw.

10.04 Area committees – access to information

- (a) Area committees will comply with the Access to Information Procedure Rules in Part 4B of this Constitution.
- (b) Agendas and notices for area committee meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

10.05 Executive members on area committees

A member of the Executive may serve on an area committee if otherwise eligible to do so as a county councillor.

ARTICLE 11 ***Joint arrangements***

11.01 Arrangements to promote well being

The County Council or the Executive in order to promote the economic, social or environmental well-being of its area may:

- (a) enter into arrangements or agreements with any person or body;

- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint Arrangements

- (a) The County 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 County Council. Such Arrangements may involve the appointment of a joint committee with these other local authorities
- (b) The Executive 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 Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the County Council as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive and, where it does so; the circumstances will be specified in Part 3 of this Constitution in respect of that joint committee.
- (e) Details of any Joint Arrangements including any delegations to joint committees are described in the County Council's Scheme of Delegations in Part 3 of this Constitution.

11.03 Access to information

- (a) The Access to Information Procedure Rules in Part 4B of this Constitution apply.
- (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 any 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.

11.04 Delegation to and from other local authorities

- (a) The full County Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.

- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the full County Council.
- (d) Details of any delegations from another authority are described in the County Council's Scheme of Delegations in Part 3 of this Constitution.

11.05 Contracting out

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

ARTICLE 12

Officers

12.01 Management structure

- (a) **General.** The County Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The County Council will appoint persons for the posts set out in Table C of Schedule 3, who will be designated chief officers.
- (c) **Head of Paid Service, Monitoring Officer, Chief Finance Officer and designated Scrutiny Officer.** The County Council will designate the posts shown in Table D of Schedule 3 as the Head of Paid Service, Monitoring Officer, Chief Finance Officer and designated Scrutiny Officer respectively. Such posts will have the functions described in Article 12.02–12.04A below.
- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the County Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the County Council.** The Head of Paid Service will determine and report as necessary to full County Council on the manner in which the discharge of the County Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers and will ensure that an annual pay policy statement is approved by the full County Council.
- (b) **Grant and supervision of exemptions from political restrictions.** The Head of Paid Service will carry out the duties relating to the granting and supervision of exemptions from political restrictions in respect of posts within the authority in accordance with the legislation in force for the time being.

- (c) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

[Note: In accordance with Section D, Part 3 of this Constitution, the Head of Paid Service in his or her capacity as the Chief Executive will –

- (a) *Make consequential amendments to the specific delegations to chief officers as are contained in Part 9 of this Constitution to reflect changes in legislation and ensure that the delegation remains fit for purpose;*

[Note – Article 15.02 authorises the Chief Executive to update this part of the Constitution without the need to refer such matters to full Council for approval.]

- (b) *Take action between meetings on matters which he or she considers is urgent.]*

12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full County Council or to the Executive 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.
- (c) **Supporting the Corporate Governance Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Corporate Governance Committee.
- (d) **Local Assessment of Complaints.** The Monitoring Officer will support the Member Conduct Panel in operating a locally based system for the assessment, referral, investigation and hearing and resolution of complaints of member misconduct.
- (e) **Proper Officer for access to information.** The Monitoring Officer may require the Proper Officer (for this purpose the Chief Executive) to satisfy him or her that effective arrangements are in place to 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.

- (f) **Advising whether Executive decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.
- (g) **Politically restricted posts.** The Monitoring Officer will take any necessary action required of the County Council in connection with the designation of posts within the County Council as politically sensitive in accordance with the legislation in force for the time being. (The granting of exemptions is a matter for the Head of Paid Service – see Article 12.02 (b) above.)
- (h) **Providing advice.** The Monitoring Officer 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 county councillors.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- (j) **Coronial appointments.** The Monitoring Officer will confirm coronial appointments as required in accordance with legislation in force for the time being.

12.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full County Council or to the Executive in relation to an Executive function and the County 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 or if the County Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the County Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the County Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and Policy Framework issues to all county councillors and will support and advise county councillors and officers in their respective roles.
- (e) **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the

community.

- (f) **Acceptance of Grant Conditions.** The Chief Finance Officer pursuant to Section 151 of the Local Government Act 1972, will have the power to enter into binding financial agreements including, but not limited to, applying for grants or making grant claims and accepting conditional or non-conditional grants.

12.04A Functions of the designated Scrutiny Officer.

The designated Scrutiny Officer will undertake the functions laid down in Section 21ZA of the Local Government Act 2000 as follows:-

- (a) to promote the role of the Authority's overview and scrutiny committee or committees;
- (b) to provide support to the Authority's overview and scrutiny committee or committees and members of that committee or those committees;
- (c) to provide support and guidance to:-
- (i) members of the Authority
 - (ii) members of the executive of the Authority, and
 - (iii) officers of the Authority;

in relation to the functions of the Authority's overview and scrutiny committee or committees.

12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

12.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

12.07 Employment

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

ARTICLE 13 ***Decision-making***

13.01 Responsibility for decision-making

The County Council will issue and keep up to date a record of what part of the County Council or individual has responsibilities for particular types of decisions

or decisions relating to particular areas or functions. This record is set out in Parts 3 and 9 of this Constitution.

13.02 Principles of decision-making

All decisions of the County Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action should be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) an explanation of the options considered and the reasons for decisions.

13.03 Types of decision

- (a) **Decisions reserved to full County Council.** Decisions relating to the functions listed in Article 4.02 will be made by the full County Council and not delegated.
- (b) **Key Decisions.** A Key Decision is an executive decision which is likely:
 1. to result in the County Council incurring expenditure which is, or the making of savings which are, significant having regard to the County Council's Budget for the service or function to which the decision relates; or
 2. to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the County.

A decision maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4D of this Constitution.

[Note: Key Decisions should normally feature in the Forward Plan which is described in Rule 14 of the Access to Information Procedure Rules in Part 4B. The current local working definition of a Key Decision adopted by the County Council is described in Rule 8 of the Executive Procedure Rules set out in Part 4D of this Constitution]

13.04 Decision-making by the full County Council

Subject to Article 13.08, the County Council meeting will follow the Meeting Procedure Rules (Standing Orders) set out in Part 4A of this Constitution when considering any matter.

13.05 Decision-making by the Executive

Subject to Articles 7.08 and 13.08, the Executive will follow the Executive Procedure Rules set out in Part 4D of this Constitution when considering any matter.

13.06 Decision-making by overview and scrutiny committees

Overview and scrutiny committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4E of this Constitution when considering any matter.

13.07 Decision-making by boards and other committees and sub-committees established by the County Council

Subject to Article 13.08, other County Council boards, committees and sub-committees will follow those parts of the Meeting Procedure Rules (Standing Orders) set out in Part 4A of this Constitution as apply to them.

13.08 Decision-making by County Council bodies acting as tribunals

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

13.09 Decision-making between meetings

The Chief Executive will take action between meetings which he or she considers is urgent in accordance with the provisions set out in Section D, Part 3 of this Constitution.

ARTICLE 14***Finance, contracts and legal matters*****14.01 Financial management**

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

14.02 Contracts

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

14.03 Legal proceedings

The Director of Law and Governance is authorised:

- (a) To institute, participate in, defend, settle, compromise, withdraw or discontinue any proceedings on behalf of the Council;
- (b) To advance, defend, compromise, abandon or otherwise dispose of claims (for monies or other remedies) in connection with any pending or actual legal proceedings in any cases where such action is necessary to give effect to decisions of any part of the council or in any cases where the Director of Law and Governance considers that such action is necessary to protect the Council's interest.

- (c) To act as 'litigation friend' in connection with any legal proceedings brought by persons to who the Council owes a legal duty of care (e.g. children in care);
- (d) To instruct counsel, solicitors and other experts in relation to legal proceedings, public enquiries, and other matters involving the Council.

With regard to the settlement of any legal proceedings where the settlement terms include the payment of a 'special severance payment', such payment shall be approved as follows:

- (i) The full Council must approve any special severance payments of £100,000 and above;
- (ii) The approval of the Head of Paid Service and the Leader of the Council must be obtained and recorded for any payments above £20,000 but below £100,000.
- (iii) The approval of the Director of Law and Governance in consultation with the Director of Corporate Resources must be obtained for any payments below £20,000.

[Note: The expression "proceedings" shall include, without limitation, criminal proceedings, civil claims, court cases, tribunals, enquiries, arbitrations and other alternative dispute resolution processes.]

14.04 Authentication of documents

- (a) The Director of Law and Governance and such officers as are authorised by him/her, are authorised generally to seal, sign, authenticate, attest and issue any notice, order or other document (including documents required for legal proceedings) on the Council's behalf including by electronic means, unless an Act of Parliament requires some other person to do so, or the Council gives authority to some other person.
- (b) Any contract with a value exceeding the limit provided for in Part 4G of this Constitution (the Contract Procedure Rules) entered into on behalf of the County Council shall be made in writing. Such contracts must either be signed (by electronic means or otherwise) or, in cases determined by the Director of Law and Governance or where it is otherwise required in law, made under the Common Seal of the County Council in a form to be determined or approved by him/her.

14.05 Common Seal of the County Council

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

ARTICLE 15
Review and revision of the Constitution

15.01 Duty to monitor and review the Constitution

The Chief Executive will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. In undertaking this task the Chief Executive may:

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him or her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in the County Council with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

Approval. Changes to the Constitution will only be approved by the full County Council after consideration of the proposal by the Chief Executive and the Constitution Committee and/or Corporate Governance Committee and/or Employment Committee as appropriate; **provided that** the Chief Executive is authorised to update any part of this Constitution in respect of changes in the Management Structure and Part 9 of this Constitution for the purpose of formally recording any changes in, or additions to, the specific delegations to officers made by the County Council, the Executive or a Regulatory Board or Committee. Proposals for changes to the Meeting Procedure Rules in Part 4(A) of this Constitution must comply with the process prescribed in those Rules.

ARTICLE 16
Suspension, interpretation and publication of the Constitution

16.01 Suspension of the Constitution

- (a) **No suspension of Articles.** The Articles of this Constitution may not be suspended.
- (b) **Suspension of Rules.** The Rules specified in paragraph (d) below may be suspended either to the extent permitted within them or by the full County Council. Any suspension shall be within the law. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Procedure to suspend.** A suspension permitted within the Rules themselves shall follow any procedure, and shall be subject to any restrictions, specified in those Rules. A suspension by the full County Council will not be moved without notice unless at least one half of the whole number of county councillors is present.

(d) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01 and in compliance with any restrictions contained within them:

Meeting Procedure Rules (Standing Orders) - Part 4A

Financial Procedure Rules - Part 4F

Contract Procedure Rules - Part 4G

16.02 Interpretation

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

16.03 Publication

The Chief Executive will ensure that a copy of the Constitution is available for inspection at County Hall and is published on the County Council's website. The Chief Executive will also ensure that paper copies can be purchased on payment of a reasonable fee.

SCHEDULE 1
Description of Executive Arrangements

The following parts of this Constitution constitute the Executive Arrangements for the purposes of the Local Government Act 2000:

1. Article 6 (Overview and scrutiny committees) and the Overview and Scrutiny Procedure Rules (Part 4E);
2. Article 7 (The Executive) and the Executive Procedure Rules (Part 4D);
3. Article 10 (Area committees and forums);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules (Part 4B);
6. Part 3 (Responsibility for Functions); and
7. Part 9 (Delegation to officers).

SCHEDULE 2
Plans and Strategies forming the Policy Framework (Article 4.01)

In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000:

1. Community Safety Strategy
2. Local Transport Plan
3. Minerals and Waste Local Plan
4. Youth Justice Plan

By local choice

5. MTFS comprising:
 - Corporate Asset Investment Fund Strategy
 - Treasury Management Strategy
 - Earmarked Funds Policy
 - Risk Management Policy Statement and Strategy
 - Capital Strategy
6. Strategic Plan and strategies relating to its outcomes and principles, including, for example, but not limited to:
 - Strong Economy Strategy
 - Affordable and Quality Homes Strategy
 - Environment Strategy
 - Communities Strategy
 - Equality, Diversity and Human Rights Strategy
7. Annual Performance Report
8. Annual Report of the Director of Public Health
9. Code of Corporate Governance
10. Corporate Parenting Policy

11. Strategic Growth Plan and strategies to enable its delivery, including, for example, but not limited to:
- Long Term Infrastructure Plan
 - Planning Obligations Policy

[Note: the following Plans, which are listed here solely for the sake of completeness, do not form part of the Policy Framework]

Plans determined by the Executive

- A. *Strategies to enable delivery of the Local Transport Plan, including, for example, but not limited to:*
- *Highways Asset Management Strategy and Policy*
 - *Passenger Transport Strategy and Policy*
- B. *Home to School Transport Policies:*
- *Mainstream*
 - *Special Educational Needs and Disabilities*
- C. *Adult Social Care Transport Policy*
- D. *Joint Municipal Waste Management Strategy*
- E. *Strategies to enable delivery of the Environment Strategy, including, for example, but not limited to:*
- *Tree Management Strategy*
 - *Ash Dieback Strategy*
- F. *Local Flood Risk Management Strategy*
- G. *Local Development Scheme*
- H. *Statement of Community Involvement*
- I. *Leicestershire Rural Framework*
- J. *Statutory Regulatory Reports including, for example, but not limited to*
- *Enforcement Programme for Underage Sales of Tobacco Products and Aerosol Paints*
 - *Use of the Covert Surveillance and the Acquisition of Communications Data Policy Statement*
- K. *Corporate Asset Management Plan*
- L. *Public Health Strategy and Strategies to enable its delivery, including, for example, but not limited to:*
- *Sexual Health Strategy*
 - *Substance Misuse Strategy*
 - *Obesity Strategy*
- M. *Children and Families Departmental Plan and strategies to enable its delivery*
- N. *Special Educational Needs and Disabilities Strategy*
- O. *Strategies relating to Schools:*
- *School Placements*
 - *Fair Access Protocol*
 - *Admissions Policy*
 - *Schools Funding Formula*
- P. *Adults and Communities Departmental Strategy and strategies to enable its delivery, including, for example, but not limited to:*
- *Workforce Strategy*

- *Community Equipment Strategy*
- *Accommodation and Investment Prospectus*
- *Safeguarding Adults Board Annual Report*
- Q. *Adult Social Care Market Position Statement*
- R. *Whole Life Disability Strategy*
- S. *Partnership strategies:*
 - *LLR Carers Strategy*
 - *LLR Autism Strategy*
 - *LLR Dementia Strategy*
 - *Children and Families Partnership Plan*

Plans Determined by the Health and Wellbeing Board

- *Better Care Fund Plan*
- *Joint Health and Wellbeing Strategy*
- *Joint Strategic Needs Assessment*
- *Pharmaceutical Needs Assessment*

SCHEDULE 3 TABLES

TABLE A *Overview and scrutiny committees (Article 6.01)*

[Note:

- *Articles 2.03(b) of this Constitution states that all County Councillors will act in the capacity to which they are elected to the County Council and not speak on behalf of any other local authority whilst they are acting as a County Councillor. This applies when overview and scrutiny committees consider matters which also affect district councils, for example growth and associated infrastructure items.*
- *Neither the Scrutiny Commission nor any of the other overview and scrutiny committees or subcommittees are empowered to take decisions or exercise any responsibilities of the Executive or County Council or Health Service bodies. The general role and specific functions are described in Article 6 and for the purposes of that Article the Scrutiny Commission is regarded as an overview and scrutiny committee for those matters which come within its scope.]*

Committee	Scope
Scrutiny Commission	1. The executive functions of the County Council in respect of (but not limited to) :- <ul style="list-style-type: none"> (i) The Budget (the revenue budget and capital programme) (ii) Strategic and Operational Property including Corporate Asset Investment Fund investments (iii) Information and Communications Technology (ICT) (iv) Commercial and Customer Services

Committee	Scope
	<p>(v) Growth and associated Infrastructure (vi) Corporate Transformation and Ways of Working (vii) Communities (viii) Corporate Performance, complaints and compliments.</p> <p>2. Any functions which are not specifically within the scope of any other overview and scrutiny committee.</p> <p>3. To act as the Crime and Disorder Committee in accordance with Section 19 of Part 3 of the Police and Justice Act 2006 and work with the Police and Crime Panel to scrutinise the delivery of effectiveness of measures aimed at reducing crime and disorder.</p> <p>4. To monitor the performance and activities of:-</p> <p>(a) The Leicester and Leicestershire Enterprise Partnership Board; (b) The Leicester and Leicestershire Transport Board; (c) Any other partnerships that are associated with the executive functions outlined above and not within the scope of any other overview and scrutiny committee.</p> <p>5. Oversight and co-ordination of the work of the overview and scrutiny committees and scrutiny review panels.</p> <p>6. Resolving any disagreements between overview and scrutiny committees.</p> <p><i>[Note:</i></p> <p><i>The scope of the Scrutiny Commission will not extend to exercising functions relating to the scrutiny of:</i></p> <ul style="list-style-type: none"> • <i>Any matters linked to the Council's Green Agenda such as energy from the Council's property portfolio which will be a matter for the Environment and Climate Change Overview and Scrutiny Committee;</i> • <i>Operational Transformation within service departments which will be a matter for each of the service related overview and scrutiny committees;</i> • <i>the National Health Service in the County, which will be a matter for the designated scrutiny committee.)</i> <p><i>See Rule 2A of the Overview and Scrutiny Procedure Rules (Part 4E) for the functions of the Scrutiny Commissioners.]</i></p>

Committee	Scope
Children and Families	<ol style="list-style-type: none"> 1. The executive functions of the County Council in respect of Children and Family Services. 2. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. above.
Adults and Communities	<ol style="list-style-type: none"> 1. The executive functions of the County Council in respect of the Adults and Communities Department. 2. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. above.
Highways and Transport	<ol style="list-style-type: none"> 1. The executive functions of the County Council in respect of Highways and Transport Services within the Environment and Transport Department. 2. To monitor the performance and activities of the Flood Risk Management Board in accordance with Section 9FH of Schedule 2 of the Localism Act 2011. 3. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. and 2. above.
Environment and Climate Change	<ol style="list-style-type: none"> 1. The executive functions of the County Council in respect of: <ul style="list-style-type: none"> (e) Environment and Waste Management Services within the Council's Environment and Transport Department; (f) Climate Change and delivery of the Council's Green Agenda including Green spaces. 2. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. above.
Health	<ol style="list-style-type: none"> 1. The executive functions of the County Council in relation to Public Health. 2. To monitor the performance of the Health and Wellbeing Board in respect of the executive functions outlined in 1. above and any other partnerships as appropriate that are associated with those functions. 3. <u>Health Service Functions</u> <ol style="list-style-type: none"> (a) The exercise by health bodies of functions which affect the area of the County Council;

Committee	Scope
	(b) Arrangements for responding to consultation by local health bodies for substantial development of the health service or substantial variation in the provision of such services save where these are dealt with through a joint committee with other Social Services authorities.

[Note: Article 6.09 makes provision for the County Council to establish a joint committee with other Social Services authorities, to scrutinise any health issue or consultation which has an area larger than the County Council where it considers it necessary or is required to do so.]

TABLE B
Area committees and forums (Article 10.02)

name of committee	composition	terms of reference
<i>[to be completed if and when area committees are appointed]</i>		

TABLE C
Chief officers (Article 12.01)

Post	Functions and areas of responsibility
Chief Executive	<ol style="list-style-type: none"> 1. Head of the Paid Service. 2. Leading the Corporate Management Team (CMT). 3. Overall corporate management and operational responsibility (including overall management responsibility for all officers). 4. Provision of professional advice to all parties in the decision-making process. 5. Responsibility for a system of record keeping for all of the County Council's decisions. 6. Representing the County Council on partnership and external bodies (as required by statute or the County Council). 7. Monitoring and Reviewing the Constitution. 8. Provision of professional advice in connection with and managing the effective provision of services in respect of:- <ol style="list-style-type: none"> (a) Strategic Planning. (b) Communities and Economic Strategies, and related partnerships. (c) Emergency Management.
Director of Corporate Resources	<ol style="list-style-type: none"> 1. Oversight of the operation of the finance function and work of the Chief Finance Officer.

Post	Functions and areas of responsibility
	2. Contribution to corporate management through participation in CMT. 3. Provision of professional advice in connection with and managing the effective provision of services for:- (a) Corporate Strategy for Transformation. (b) The Council's Human Resources. (c) The maintenance and development of the land and buildings of the County Council. (d) County Farms. (e) Industrial Units. (f) County Council Information Communications and Technology (ICT). (g) Public Relations. (h) Country Parks.
Director of Law and Governance	1. Monitoring Officer. 2. Contribution to corporate management through participation in CMT. 3. Provision of advice on Standards. 4. Provision of professional advice in connection with and managing the effective provision of services in respect of:- (a) Democratic, Civic Affairs and Administrative Services. (b) Legal Services. (c) Regulatory Services. (d) The Planning Service.
Director of Children and Family Services	1. Provision of professional advice in connection with and managing the effective provision of children and family services, youth justice and safer communities. 2. Contribution to corporate management through participation in CMT.
Director of Adults and Communities	1. Provision of professional advice in connection with and managing the effective provision of:- (a) Adult Social Care Services. (b) Libraries Service. (c) Heritage and Arts. 2. Contribution to corporate management through participation in CMT. 3. Liaison with the NHS.

Post	Functions and areas of responsibility
Director of Environment and Transport	<ol style="list-style-type: none"> 1. Provision of professional advice in connection with and managing the effective provision of services for:- <ol style="list-style-type: none"> (a) Highways. (b) Transportation. (c) Waste Management. (d) Environmental Management. 2. Contribution to corporate management through participation in CMT.
Director of Public Health	<ol style="list-style-type: none"> 1. Provision of professional advice in connection with health and public health and managing the effective commissioning of services for public health. 2. Contribution to corporate management through participation in CMT.

TABLE D

Head of Paid Service, Monitoring Officer, Chief Finance Officer and designated Scrutiny Officer (Article 12.01)

Post	Designation
Chief Executive	Head of Paid Service
Director of Law and Governance	Monitoring Officer
Director of Corporate Resources	Chief Finance Officer
Head of Law	Scrutiny Officer

[end of Articles]

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Part 3

Responsibility for Functions

Part 3

Responsibility for Functions

Part 3 - Responsibility for Functions**Section A: Responsibility for “Local Choice” functions***[Notes:*

- (a) *The use of the word “appeal” in items 3 to 6 in the table below is intended only to apply to those instances where a formal right of legal appeal exists. Processes which involve the making of representations or access to a review do not come within the legal ambit of an “appeal”. The word “appeal” is a technical one, involving specific legal consequences and the inappropriate use of that word to describe representation or review processes should be avoided.*
- (b) *In items 4 to 6 in the table below, the Executive’s responsibilities are concerned with making the arrangements. The actual hearing of an appeal will be handled by a Panel, appointed by the Chief Executive, whose composition will comply with any statutory requirements.*
- (c) *In item 11 in the table below, the “revocation of appointments” excludes considering and determining representations seeking the removal of any LEA appointed school governor, which is the function of the Corporate Governance Committee]*

	Function	Responsible Body
1	Leicestershire Act 1985: section 10 (control of floodlighting) section 16 (consent to projections) section 18 (pedal cycles) section 48 (buildings used for storage of flammable substances) section 58 (byelaws as to leisure centres)	Development Control and Regulatory Board (DC&RB)
2	Leicestershire Act 1985: section 4 (interference with traffic signs etc) section 5 (statutory undertakers’ apparatus etc) section 9 (recovery of expense 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 15 (affixing of traffic signs to walls) section 17 (provision of trees and shrubs) section 41 (defacing of streets) section 59 (provision of parking places in parks etc) section 60 (contribution towards provision of recreational facilities) section 82 (insurance of visiting pupils) section 83 (power to provide information) section 84 (publication of bulletins etc) section 85 (certain particulars to be furnished in writing)	Executive

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Responsibility for Functions

	<p>section 86 (evidence of confirmation of committee decisions etc)</p> <p>section 87 (training arrangements)</p> <p>section 88 (recording of documents)</p> <p>section 89 (microfilming of documents)</p> <p>section 90 (restriction on use of armorial bearings)</p>	
3	Determination of an appeal against any decision made by or on behalf of the County Council	Panel appointed by Chief Executive
4	Making arrangements for appeals against exclusion of pupils - section 67 of the School Standards and Framework Act 1998 ("the 1998 Act")	Executive
5	Making arrangements for admission appeals - section 94 of the 1998 Act	Executive
6	Making arrangements for appeals by governing bodies - section 95 of the 1998 Act	Executive
7	Conducting Best Value Reviews	Executive
8 & 9	<p>Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land</p> <p>Obtaining information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to persons interested in land</p> <p>- (a) in connection with functions which are the responsibility of the Executive</p> <p>- (b) in connection with functions which are not the responsibility of the Executive</p>	<p>(a) Executive</p> <p>(b) DC&RB</p>
10	<p>Making agreements for the execution of highways works</p> <p>- (a) in connection with the improvement of highways</p> <p>- (b) in connection with development control</p>	<p>(a) Executive</p> <p>(b) DC&RB</p>
11	<p>Making and revocation (except where the revocation is within the remit of the Corporate Governance Committee) of appointments</p> <p>- (a) in connection with functions which are the responsibility of the Executive</p> <p>- (b) in connection with functions which are not the responsibility of the Executive</p>	<p>(a) Executive</p> <p>(b) Constitution Committee</p>

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Responsibility for Functions

Section B: Responsibility for “County Council” functions*[Note:*

- (a) In the context of Leicestershire County Council these non-executive “County Council” functions fall within the remit of a series of committees or boards within what is described as the “Regulatory” area.*
- (b) Since these committees and boards are intended to reflect the political composition of the full County Council, their membership will be that determined from time to time by the full County Council and will be listed in the record maintained by the Chief Executive for public inspection at County Hall and will be published on the County Council’s website.*
- (c) Where functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 are described by reference to a specific statutory provision, for the purposes of this Section those functions shall be deemed to include any subsequent statutory modification or extension.]*

Development Control and Regulatory Board

1. The Development Control and Regulatory Board shall not have power to appoint subcommittees.
2. The extent to which the non-executive powers within the Board’s remit have been delegated to heads of departments, either by the full County Council or by the Board (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Board shall be:
 - (a) **Planning and conservation.**
 - (i) The exercise of those functions relating to town and country planning and development control which are specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the “Functions Regulations”) and which are relevant to a county council;

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- (ii) Offering advice to the Cabinet in response to consultation exercises relating to planning applications referred by District Councils or other agencies.
- (b) **Commons registration.** The exercise of the functions relating to the registration of common land or town and village greens and registration of the variation of rights of common as set out in Schedule 1 to the Functions Regulations.
- (c) **Licensing.** Those functions relating to licensing which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (d) **Marriages.** The exercise of the power to approve premises for the solemnisation of marriages as specified in Schedule 1 to the Functions Regulations.
- (e) **Highways use and regulation.** The exercise of those functions relating to the regulation of the use of highways and the miscellaneous highways functions which are set out in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (f) **Health and safety.** The exercise of those functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the County Council’s capacity as employer.
- (g) **Byelaws.** Making recommendations to the County Council relating to the making, amendment, revocation or re-enactment of byelaws which are specified in Schedule 1 to the Functions Regulations and which are relevant to the County Council.
- (h) **Charges.** Determination of charges which should be made (and if so, the amount of the charge) for any approval, consent, licence, permit or registration the issue of which is within the remit of the Board.

Local Pension Committee

1. The Local Pension Committee shall not have power to appoint subcommittees but the County Council may appoint an Investment Subcommittee to assist the Committee to carry out its functions.
2. The extent to which the non-executive powers within the Committee’s remit have been delegated to heads of departments, either by the full County Council or by the Board (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part;
 - (b) in the Financial Procedure Rules in Part 4F; and

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- (c) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be those related to the maintenance of the Leicestershire Pension Fund. The Committee may carry out these functions with the assistance of an Investment Subcommittee with the following terms of reference.

Investment Subcommittee

1. The functions delegated to the Investment Subcommittee shall be:
- (a) to monitor the performance of investment managers, particularly those whose performance is causing concern.
 - (b) To assist in the selection of investment managers.
 - (c) To determine the timing of changes in asset allocation, within the Investment Strategy agreed by the Local Pension Committee.
 - (d) To consider changes to the portfolio size of investment managers.
 - (e) To determine the management of the 'opportunity pool'.
 - (f) To undertake any other duties as requested by the Local Pension Committee.

[Note: the membership of the Committee includes representatives of other local bodies whose employees are members of the Leicestershire Pension Fund.]

Corporate Governance Committee

1. The Corporate Governance Committee shall have power to appoint subcommittees to deal with any appointments for which it has responsibilities.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
- (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.

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3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be:

Corporate Governance Matters

- (a) The promotion and maintenance of high standards within the Authority in relation to the operation of the Council's Local Code of Governance and in particular to ensure:
- (i) that an adequate risk management framework and associated control environment is in place;
 - (ii) that the Authority's financial and non financial performance is properly monitored;
 - (iii) proper oversight of the financial reporting processes;
 - (iv) that the Council's Treasury Management arrangements are appropriate and regularly monitored.
- (b) To review the Council's Local Code of Governance as necessary and make recommendations to the County Council to ensure that it remains relevant to the Council's work and practices.
- (c) To satisfy themselves that the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund including the County Council's Annual Governance Statement have been prepared in accordance with best practice.
- (d) To make recommendations to the County Council either directly or via the Constitution Committee on any amendments required to the Financial Procedure Rules and Contract Procedure Rules set out in Parts 4F and 4G of this Constitution and to make such changes as are considered necessary to the Standard Financial Instructions.
- (e) To monitor the adequacy and effectiveness of the external audit of the Council's services and functions and to:-
- (i) consider, comment upon and note the arrangements chosen by the Council to select and appoint its statutory external auditor;
 - (ii) review the External Auditor's disclosure of independence and objectivity and satisfy itself that no issues with compliance with ethical standards or problems with audit quality have been raised;
 - (iii) consider the nature and scope of the external audit of the Council's services and functions;
 - (iv) consider external audit reports including the Auditor's Annual Report;
 - (v) monitor the County Council's response to the external auditors findings and the implementation of external audit recommendations.

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- (f) To monitor the adequacy and effectiveness of the Internal Audit Service and to: -
- (i) fulfil the role of 'the Board' for the purposes of the Public Sector Internal Audit Standards (the PSIAS);
 - (ii) Approve the internal audit charter;
 - (iii) Approve risk based Internal Audit plans;
 - (iv) monitor progress against plans through the receipt of periodic progress reports and an annual Internal Audit report containing the annual opinion on the overall adequacy and effectiveness of the control environment and conformance to PSIAS;
 - (v) consider major Internal Audit findings and recommendations;
 - (vi) monitor the response to major Internal Audit findings and the implementation of its recommendations;
 - (vii) contribute to and support an external quality assessment of the internal audit function.
- (g) Monitor the effectiveness of officer arrangements for ensuring an adequate internal control environment and combating fraud and corruption.
- (h) Monitor the arrangements for the identification monitoring and management of strategic and operational risk within the Council.
- (j) To liaise with the Executive and other bodies as appropriate on matters of corporate governance and financial accountability.
- (k) Advising on training for members of the Council on matters relating to the Corporate Governance of the Authority.

Standards of Conduct Matters

- (l) The promotion and maintenance of high standards of conduct by members and co-opted members within the County Council, including:-
- (i) Advising the County Council on the adoption or revision of its Code of Conduct;
 - (ii) Monitoring and advising the County Council about the operation of its Code of Conduct in the light of best practice and changes in the law.
- (m) To approve the Council's procedure for handling Member Conduct Complaints. (*See also the delegation to the Director of Law and Governance*).
- (n) Ensuring that all members and co-opted members of the County Council have access to training in all aspects of the Code of members, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code.

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- (o) Making arrangements for the appointment of independent persons whose views must be sought about allegations of a breach of the Members' Code of Conduct in accordance with the provisions of the Localism Act 2011.
- (p) To have oversight as part of the annual complaints report of the findings of the Local Government Ombudsman where there is a finding of maladministration against the Council.
- (q) To make voluntary payments or provide other benefits in cases of maladministration under section 92 of the Local Government Act 2000. *(See also the delegation to the Director of Law and Governance.)*
- (r) Making arrangements for members to receive dispensations to speak on or participate in matters in which they have interests. *(see also the delegation to the Director of Law and Governance.)*
- (s) Exempting members from vacation of office by failure to attend meetings.
- (t) Considering and determining representation seeking the removal of any LEA appointed school governor.
- (u) Subject to the powers of the Employment Committee in relation to Local Conditions of Service, advising as necessary on matters relating to the conduct of employees and procedures relating to the handling of complaints, including "whistle blowing".

Constitution Committee

1. The Constitution Committee shall not have power to appoint subcommittees, save in relation to members' allowances.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be:

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- (a) **Elections.** Those functions relating to elections which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (b) **Statement of Accounts.** Approval of the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund.
- (c) **Names and status.** Those functions relating to the name and status of areas and individuals which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (d) **Bills.** Advising the Council on the promotion or opposition of local or personal Bills which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (e) **Appointments.** Making and revoking appointments, except where the full County Council, the Cabinet, the Corporate Governance Committee or other board or committee has such responsibility.
- (f) **Members' Allowances Scheme.** Advising the County Council on the Members' Allowances Scheme *[Note: approval of the scheme cannot be delegated by the County Council to a committee]*.
- (g) **Members' Services.** Approving the arrangements for providing appropriate support services to meet the needs of elected members.
- (h) **Constitution.** Advising the County Council on the Constitution.
- (i) **Charitable Trustee.** Those functions relating to the Council's role as a Charitable Trustee where the Council has been identified as a trustee of a charity or trust or the recipient of a bequest and holds property or assets on trust, including consideration of matters where there is a conflict or potential conflict between the Council's interests and those of the Charitable Trust or bequest.

Employment Committee

1. The Employment Committee shall not have power to appoint subcommittees.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, and to the provisions of the Officer Employment Procedure Rules (Part 4H of the Constitution) the functions delegated to the Committee shall be:

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- (a) power to determine the terms and conditions on which staff hold office, including disciplinary and grievance procedures.
 - (b) making effective arrangements to ensure compliance with employment legislation and, where necessary, employment codes of practice.
4. The powers of the Employment Committee shall not extend to consultations or negotiations with representatives of the recognised trade unions since other mechanisms exist within the County Council to undertake these functions.

Section C: Responsibility for Executive and Health and Wellbeing Functions

1. The County Council has established a Health and Wellbeing Board as a Subcommittee of the Executive to carry out the functions set out in Article 7A of Part 2 of this Constitution.
2. The Health and Wellbeing Board shall not have the power to appoint subcommittees without the consent of the County Council.

[Notes:

- (a) *The Executive may not, in accordance with Article 7.08 in Part 2, delegate any executive functions to an individual member of the Executive. While that Article remains in operation, Table C2 will have no effect.*
- (b) *Executive powers have been delegated to officers.]*

Delegation to a subcommittee: Table C1

Responsible Body	Functions	Onward limits on delegation
Health and Wellbeing Board	To approve the Better Care Fund Plan	No onward delegation permitted

Delegation to an individual member of the Executive: Table C2

Responsible Member	Functions	Onward limits on delegation
<i>[to be completed if and when functions are delegated to an individual member]</i>		

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Joint Arrangements

Eastern Shires Purchasing Organisation (ESPO).

The Executive has established joint arrangements for the purchase of goods and supplies and the provision of agreed services by establishing a consortium with Lincolnshire County Council, Cambridgeshire County Council, Norfolk County Council, Warwickshire County Council and Peterborough City Council, which is called the Eastern Shires Purchasing Organisation (ESPO). A joint committee has been established in accordance with section 102 of the Local Government Act 1972. The executive has delegated to the joint committee the powers to:-

- (i) Provide a comprehensive cost effective professional purchasing service based on the overall requirements of the Member Authorities (and Customers where applicable);
- (ii) Maintain effective, efficient and economical arrangements for the supply of goods and/or services;
- (iii) Achieve overall cost savings and efficiencies for the Member Authorities by providing a simple, effective system for the supply of goods and/or services;
- (iv) Provide timely and relevant information to the Member Authorities based on their requirements; and
- (v) Provide the ESPO Services [defined in Schedule 2 to the Partnership Agreement] to the Member Authorities (and Customers where applicable) based on their requirements.

Parking and Traffic Regulations Outside London Adjudications Joint Committee (PATROL)

The Executive has entered into this national Joint Committee arrangement (for which Manchester City Council act as lead authority) for the provision of an adjudications service to ensure that parking restrictions can be enforced in Leicestershire, under Section 101 of the Local Government Act 1972.

East Midlands Shared Services

The Executive has established joint arrangements with Nottingham City Council for the delivery of a programme of shared services including Human Resources, Payroll and Finance Transactional Services. A joint committee has been established in accordance with Section 102 of the Local Government Act 1972. The Executive has delegated to the joint committee the power to provide support services to Leicestershire and Nottingham Councils and other external clients.

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Police and Crime Panel

Joint arrangements with Leicester City Council, Rutland Council and the District Councils for the purposes of holding to account the Police and Crime Commissioner for the execution of his or her role as required by legislation in force for the time being.

[Note: More detailed working arrangements relating to the operation of the Police and Crime Panel are set out on the County Council website at <https://www.leicestershire.gov.uk/about-the-council/how-the-council-works/other-bodies/the-police-and-crime-panel>.]

Joint Committee for the Local Government Pension Scheme Central Investment Pool

The County Council has established joint arrangements with eight Midlands-based Local Government Pension Funds (Leicestershire, Cheshire, Shropshire, Staffordshire, West Midlands, Derbyshire, Nottinghamshire and Worcestershire) to form the Local Government Pension Scheme Central Investment Pool. A joint committee has been established in accordance with section 102 of the Local Government Act 1972 to enable representatives from the eight authorities to meet, ask questions of the operator of the Investment Pool and challenge the performance of investments and investment managers.

Delegation to and from other local authorities

On-Street Parking

The Cabinet has delegated to the District Councils on 4 June 2007 the task of maintaining on-street parking regulations. That is, patrolling on-street areas and where required issuing Penalty Charge Notices where breaches of the regulations apply. The details are the subject of a Service Level Agreement.

The County Council has accepted a reciprocal delegation of necessary notice processing powers from the District Councils to enable the County Council to meet its obligations under the Service Level Agreement.

Deprivation of Liberty Assessments

The County Council has accepted on 25 March 2009 the delegation of social care and health functions from Rutland Council, East Leicestershire and Rutland Clinical Commissioning Group and West Leicestershire Clinical Commissioning Group to carry out Deprivation of Liberty Assessments on behalf of those bodies.

Travellers

The County Council has accepted on 8 July 2009 pursuant to the Local Government Acts 1972 and 2000, the delegation of functions from Leicester City Council in relation

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to unauthorised encampments within the area of Leicester City and from Rutland Council in relation to unauthorised encampments in the area of Rutland, such delegation to take effect from the date of completion of the associated Compact Agreement.

Community Equipment Services

The Cabinet has delegated to Leicester City Council on 27 July 2010 so much of the health related functions undertaken by the County Council as may be necessary to enable the City Council to provide integrated community equipment services for older people and people with disabilities in Leicester and Leicestershire.

Trading Standards Functions and Responsibilities

The Cabinet has delegated to Birmingham City Council on 5 April 2011 the functions of investigating, administering and enforcing the legislation and offences at common law in so far as those relate to or arise from investigations into illegal money lending activities within Leicestershire, including the power to institute legal proceedings in those cases, as appropriate, pursuant to section 101 of the Local Government Act, 1972 in accordance with the provisions of Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and Sections 13 and 19 of the Local Government Act 2000.

Trading Standards Service Practical Arrangements for the Handling of Criminal/Civil Proceedings Involving More than One Local Authority

The Cabinet on 13 September 2013 authorised the Chief Executive to enter into arrangements under section 101 of the Local Government Act 1972 with other local authorities, involving the delegation of functions of the County Council relating to legislation enforced by the Trading Standards Service to such local authorities, in cases where he considers it will best serve the interests of justice and/or enable cases involving more than one authority to be pursued efficiently and effectively.

The County Council on 25 September 2013 delegated authority to the Chief Executive to enter into arrangements under Section 101 of the Local Government Act 1972 with other local authorities, involving the acceptance of the delegation of any of the functions relating to legislation enforced by the Trading Standards Service from such other local authority, in cases where he considers it will best serve the interest of justice and/or enable cases involving more than one authority to be pursued efficiently and effectively.

The County Council on 25 September 2013 delegated authority to the Director of Law and Governance and Head of Regulatory Services or officers nominated by them to institute proceedings (civil and/or criminal) pursuant to any arrangements entered into under the paragraph immediately above.

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Internal Audit

The County Council on 22 March 2017 accepted a delegation from Leicester City Council under section 9EA of the Local Government Act 1972 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 to carry out Leicester City Council's internal audit function.

Care and Mental Health Acts

The County Council has accepted on 21 March 2018 the delegation of the following functions from Rutland Council:

- (i) Assessments of need pursuant to Section 9 of the Care Act 2014 in respect of people aged between 18 and 64 years with mental health problems;
- (ii) Making arrangements for suitable care to be put in place pursuant to Section 2 of the Care Act 2014 where such need has been identified;
- (iii) Carrying out the statutory duties of Approved Mental Health Act Professionals pursuant to Section 13 of the Mental Health Act 1983.

The Cabinet has delegated to Leicester City Council on 24 May 2019 the statutory functions of the County Council in respect of:

- i) enquiries pursuant to Section 42 of the Care Act 2014 in respect of safeguarding adults from abuse, and
- ii) carrying out the statutory duties of Approved Mental Health Act Professionals pursuant to Section 13 of the Mental Health Act 1983

during the following hours:

- i) Monday to Thursday before 08:30 and after 17:00
- ii) Fridays before 08:30 and after 16:30
- iii) Saturdays, Sundays, and public and bank holidays;

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Delegation to officers

The extent to which executive powers within the Executive's remit have been delegated to heads of departments by the Executive (or by any of the bodies, including the County Council, previously charged with the functions now within its remit), will be found:

- (i) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
- (ii) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.

**Section D: General scheme of delegation to
Chief Officers**

[Notes:

- (a) This general scheme of delegation relates to both executive and non-executive functions.*
- (b) This general scheme of delegation is supplemented by a series of specific decisions which:

 - (i) define which officer is to authorised to act as the "Proper Officer" for specified purposes; and*
 - (ii) give additional delegated powers to heads of departments in relation to particular issues or areas of activity.**

The record of those specific decisions is maintained by the Chief Executive, is available for public inspection at County Hall during normal office hours and constitutes Part 9 of this Constitution.]

Preamble

1. The following delegated powers should be read in conjunction with Financial Procedure Rules (Part 4F) and Contract Procedure Rules (Part 4G).
2. Officers should also have regard to specific delegations to heads of departments, to the Standard Financial Procedures, to the personnel policies and procedures, and to any departmental rules and conventions, before exercising powers.
3. The powers delegated to officers under this scheme are in respect of executive or non-executive functions as the case may be.
4. In the case of a non-executive function, "relevant body" means the body responsible for the non-executive function concerned.

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General conditions of delegation

5. Any exercise of delegated powers by officers:-
 - (a) shall comply with the Meeting Procedure Rules (Part 4A), Financial Procedure Rules (Part 4F) and Contract Procedure Rules (Part 4G) and the Standard Financial Instructions made by the Executive;
 - (b) shall not authorise expenditure except in accordance with the approved budget or capital programme, and where other further approval is required, shall not precede that approval;
 - (c) shall not involve a key decision save in exceptional circumstances where it may be necessary for the Chief Executive to act as a matter of urgency under paragraph 12 below;
 - (d) shall not make a new policy or amend an existing policy of the County Council as determined at elected member level except in so far as is permitted under paragraph 23 below;
 - (e) shall be in accordance with any approved scale or scheme and any directions of the Executive or other relevant body; and
 - (f) shall be the subject of prior consultation with the appropriate professional or technical officer of the County Council in any case involving professional or technical considerations not within the province of the head of department concerned.
 - (g) follow any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required;
 - (h) have identified and managed appropriate strategic and operational risks within the officer's area of responsibility;
 - (i) be in accordance with the decision-making requirements set out in this Constitution including requirements for decision records and access to information.

6. Any delegation to a head of department may be exercised on his or her behalf by any officer authorised by him or her either generally or specifically for the purpose and in all cases by the Chief Executive.

7. Any proper officer function or delegation to the Chief Executive may in his/her absence be exercised by the Director of Corporate Resources and in both their absence, the Director of Law and Governance.

8. Subject to any express instruction to the contrary from the delegating body, any power to approve also includes power to refuse, power to impose appropriate conditions and power to amend decisions.

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9. Where an officer is authorised or designated as a Proper Officer for the purposes of any legislation, that authorisation (unless it specifically states to the contrary) will be deemed to authorise that officer to undertake all the powers and duties of an authorised officer as are specified in that legislation. These may include (but are not restricted to) the power to enter on land, undertake inspections, serve notices, take samples and remove goods.
10. Where a power or duty is delegated to an officer, either directly or through designation as an authorised officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or whether those conditions have been fulfilled in the name of and with the authority of the Council.
11. Delegation to officers shall be without prejudice to the overriding right of the County Council, Executive or other relevant body itself to decide any matter for which it has the capacity under the Local Government Act 2000 to take a decision or to call for information about a particular case or class of case relevant to its competence. In particular, a head of department may in any case, in lieu of exercising his or her delegated powers, refer a matter to the Executive or other relevant body, as the case may be, for decision.
12. Subject to the foregoing conditions and to any special conditions which may have been or may in future be applied in respect of particular matters, heads of departments will be expected to make such decisions and to initiate such action as they deem necessary in the interests of the efficient running of their departments and the services which they administer.
13. In the general scheme of delegation the term "employees" shall not include teachers employed by schools.
14. Delegations relate to all provisions for the time being in force under any applicable legislation. Delegations under a specific legislative provision will include references to Regulations and other subordinate legislation made thereunder and incorporate any amendment to or re-enactment of that provision.
15. Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme will be construed in a broad and inclusive fashion and will include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything so specified.
16. Where a power or duty delegated under this Scheme includes a power to take enforcement action, and/or to recover costs, fees or charges, the delegation will include the power to take all necessary action to recover such fees, costs or charges by way of civil debt or otherwise.

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General delegations to the Chief Executive

17. **Amendments to the Constitution:** To amend this Constitution to reflect reorganisations, changes in job titles and vacancies (where such changes result in redistributing existing delegations), to reflect changes in law and good practice and to effect member decisions.
18. **Urgent Action:** Power to take action between meetings which he or she considers is urgent after consultation:-
- (a) On matters within the responsibility of the Executive, with the Leader or such other member of the Executive as may be nominated by the Leader;
or
- (b) On matters within the responsibility of a relevant body or with the Chairman and relevant Group Spokesmen of the body concerned;
- subject to the details of such action being reported for information to the next appropriate meeting of the body concerned.
- To authorise any action reasonably necessary to protect the health, safety or welfare of individuals or the safety of property.
19. **Proper officers:** To appoint officers as proper officers for the purposes of any specific Council service, function or as required in law and to act as the Proper Officer where another officer has not been appointed, and to amend the Proper Officer provisions set out in Part 9 of this Constitution accordingly.
20. **Other officer delegations:** To exercise all delegated functions to officers in the absence of relevant officers.
21. **Emergency planning:** To discharge emergency planning and civil protection functions.

General delegations to Chief Officers

Subject to the provisions of the preceding paragraphs:-

22. **Appointment of employees:** power to appoint, within the approved budget or approved external funding, all employees below the level of chief officer. The appointment may be at any point within the approved salary scale.
- To implement changes to staffing structures subject to prior consultation with all appropriate parties as required by law and in line with the Council's own policies and procedures.

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To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other authority.

23. **Finance:** To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications in accordance with the County Council's Medium Term Financial Strategy.

To enter into contracts. (*See also the contract procedure rules.*)

To incur revenue expenditure within the approved budget or approved external funding on non-employee related items, subject to the Chief Finance Officer having the discretion to lay down conditions, either generally or in any particular case, and subject to the approval of the Cabinet where the Chief Finance Officer considers this to be appropriate.

24. **Tenders and quotes:** in exercising the power in paragraph 11 above the Head of Department shall comply with the provisions of the Contract Procedure Rules.

25. **Grants and External Funding:** power after consultation with the relevant Lead Member to apply for and accept grants and external funding subject to:-

- (i) there being no additional costs to the Authority for which there is no budget or capital programme provision;
- (ii) there being no ongoing costs to the Authority for which there is no budget provision;
- (iii) approval being obtained from the Chief Finance Officer to any contingent liabilities for repayment should any conditions not be met;
- (iv) any associated agreement being made with the approval of the Director of Law and Governance;
- (v) such conditions as the Chief Finance Officer may lay down from time to time.

26. **Provision of Grants and Financial Assistance:** power to make grants and provide financial assistance in accordance with such schemes as may be adopted by the Council subject to provision having been made within the budget and any conditions laid down by the Chief Finance Officer.

27. **Appointment of Consultants:** the powers in this scheme (and their limitations) will extend to the appointment of:-

- specialist technical consultants
- management consultants

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-interim managers

provided that people so appointed receive appropriate training about the Council's governance arrangements, rules and operating procedures and are made clearly aware of the extent of any limitations on any delegated authority they may receive from the Chief Officer concerned.

28. **Data Protection Act 2018 and the General Data Protection regulations 2018 - charging for subject access:** power, in consultation with the Director of Corporate Resources, to exercise discretion as to what fee (if any), not exceeding the prescribed maximum, is to be required in respect of the right of access under Article 15 of the General Data Protection regulations 2016 to personal data.
29. **Plant and equipment:** power to dispose of surplus or obsolete vehicles, plant, apparatus, or other equipment or books, in accordance with the Standard Financial Instructions.
Power to manage vehicles, plant, equipment, apparatus, machinery, stock, stores, supplies, materials, furniture, appliances, or other equipment or books, necessary for the provision of services.
30. **Lost and Uncollected Property:** powers to deal with items under Section 41 of the Local Government Miscellaneous Provisions Act 1982 in relation to lost and uncollected property on County Council premises.
31. **Personnel procedures:** power for heads of departments to take decisions relating to employment matters delegated to them from time to time in accordance with the local conditions of service and other personnel policies and procedures. The Chief Executive may determine from time to time those matters which may be exercised by the head of department.
32. **County Council plans, policies and strategies:** To make such consequential amendments to any Council plan, policy or strategy agreed at elected member level including plans or strategies within the Council's Policy Framework, following consultation with the Chief Executive as is considered necessary to reflect changes in legislation and good practice to ensure the plan, policy or strategy remains fit for purpose and is compliant with legal requirements.
33. **Annual Review of Charges:** in accordance with relevant legislation and Standard Financial Instruction 15 to review and set all fees and charges for County Council services and activities at least annually, and to determine detailed pricing for outside work.
34. **General operational:** To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

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35. **Implementation of decisions:** To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of the full county council, the Cabinet and any Regulatory committee/board.
36. **Consultations:** To respond to Government consultations and consultations from other bodies where appropriate, in consultation with the relevant Lead Member or committee/Board Chair.

To undertake all steps required to complete Government Statistical Returns.

37. **Supply of goods and services:** To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services Act) 1970 and all other enabling legislation.

Section E: Panels

1. The Chief Executive has power to determine the size of the Panels set out in paragraph 5 below and to appoint members to those Panels from a Pool of members who have expressed an interest in this role. The Chief Executive will exercise these powers in compliance with any statutory requirements and after consultation with the political groups.
2. The Panels relate either to non-executive functions or to executive functions, as the case may be.
3. Those of the following Panels which relate to an executive function have been given terms of reference which do not involve delegated powers, but rather giving advice. Consequently, where a county councillor who is not a member of the Executive is appointed to such a Panel, that person's membership of the Panel will not have the effect of disqualifying him or her from being a member of an overview and scrutiny committee. The member will, however, be unable to scrutinise any decision in which he or she took part, as a member of the Panel concerned.
4. Any appeal from a decision of a Panel which requires determination by another Panel will be dealt with by a differently constituted Panel, none of whose members was involved in the earlier stages of the matter.
5. The Panels which are appointed by the Chief Executive are:
 - (a) **Adoption Panel:** to advise the adoption agency whether adoption is in the best interests of the child and whether a prospective adopter is suitable in principle and in relation to a particular child.
 - (b) **Approval of Premises Panel (Civil Marriages):** to consider objections and/or appeals in connection with applications for the approval of premises for the performance of civil marriages.

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- (c) **Children's Social Care Panel:** to provide strategic oversight at elected member level of children's social care issues, having particular regard to the following areas:-
 - (i) Children in Care;
 - (ii) Child Protection;
 - (iii) Partnership Working.
- (d) **Complaints Panel (School Curriculum and Religious Education):** to consider and advise the Executive upon complaints made by parents or guardians under the provisions of Section 409 of the Education Act 1996 relating to the school curriculum and religious education.
- (e) **Member Conduct Panel:** to assess any allegation that a member or co-opted member of the Council has breached the Council's Code of Conduct and to conduct a determination hearing as appropriate.
- (f) **County Council Employment Panel:** to conduct hearings and make decisions in individual cases in respect of employment arrangements to the extent as may be determined from time to time by conditions of service of staff and local procedures.
- (g) **Appointment Committee (Chief Officer):** as provided for in the Officer Employment Procedure Rules, a Committee to appoint or recommend for appointment a person to act as Chief Officer or Head of Paid Service (Provided that it is not practical to appoint such a Committee at a meeting of the Council).
- (h) **Fostering Panel:** to consider applications from people who wish to be registered as foster carers to ensure that they comply with the National Standards laid down for the fostering of young children, and make recommendations to the Fostering Agency (i.e. Children and Family Services).
- (i) **Manufacture and Storage of Explosives Panel :** to consider, through public hearings, representations about applications to the Health and Safety Executive under the Explosive Regulations 2014 (or such other regulations which may be in force) and to determine whether or not to give the Council's assent to those applications.
- (j) **Disputes Panel:** to consider oral representations from unions and management when negotiations at officer level have failed to reach agreement (following written submissions) and to make recommendations to the Employment Committee or Cabinet, or both, as appropriate.
- (k) **Representations Panel (Independent Providers of adult social care):** to consider representations made from independent sector providers against proposals to remove them from a list of approved service providers

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or to suspend them from such a list and to make recommendations to the Director of Adults and Communities as to the appropriate course of action.

- (l) **Guardianship Review Panel:** to consider whether a Guardianship Order made under Section (7) or (37) of the Mental Health Act (1983) is still necessary or if the person concerned should be discharged.

[Note: the County Council Employment Panel is intended to perform the functions of the County Council Appeals Panel, the Teachers Employment Panel and the Teachers' Grievance Panel. Employment issues in relation to teachers in schools are dealt with at school level as a consequence of Local Management of Schools.]

[end of Part 3]

Part 4 A

Meeting Procedure Rules

Part 4A - Meeting Procedure Rules**Standing Orders**

- 1 Meetings of the County Council
- 2 Chairman of the meeting
- 3 Quorum
- 4 Order of business
- 5 Variation of order of business
- 6 Minutes of the Council
- 7 Questions from Elected Members
- 8 Position Statements
- 9 Procedure relating to reports to Council
- 10 Notices of motion
- 11 Motions and amendments which may be moved without notice
- 12 Motions which may be moved during debate
- 13 Rescissions
- 14 Amendments to motions
- 15 Alterations or withdrawal of motion or amendment
- 16 Motions and amendments generally
- 17 Motions affecting persons employed by the Council
- 18 Length of speeches and conduct of members
- 19 Seconder's speech
- 20 When a member may speak again
- 21 Right of reply
- 22(A) Points of Order
- 22(B) Points of Personal Explanation or Information for the meeting
- 23 Next business etc
- 24 Adjournment of debate
- 25 Closure
- 26 Appointments by the Council
- 27 Appointments at the Annual Meeting of the Council
- 28 Voting
- 29 General disturbances
- 30 Interests in contracts and other matters
- 31 Chairmanship of the Executive, the Commission, boards and committees
- 32 Meetings of the Executive, the Commission, boards and committees
- 33 Proceedings of the Executive, the Commission, boards or committees
- 34 Questions from electors at the Commission, boards or committees
- 35 Petitions at the Commission, boards, committees or forums
- 36 Variation and revocation of Standing Orders
- 37 Suspension of Standing Orders
- 38 Interpretation of Standing Orders

Part 4A - Meeting Procedure Rules

STANDING ORDER 1 ***Meetings of the County Council***

- (1) The annual meeting of the Council shall be held:-
 - (a) in the year of the ordinary election of councillors to the Council, on the second Wednesday after the day of election;
 - (b) in any other year, on any Wednesday in May.
- (2) In addition to the annual meeting of the Council and any meetings convened by the Chairman or by members of the Council, meetings for the transaction of general business shall be held on such days as may be determined by the Council at its annual meeting on the recommendation of the Executive provided that a date so determined may be varied by the Executive.*
- (3) In these Standing Orders "ordinary meeting" means a meeting described in paragraph (1) or (2) above other than a meeting convened by the Chairman or by members of the Council.
- (4) Unless the Council otherwise determines, all meetings of the Council shall be held at 2.00 p.m. other than a meeting on a Saturday which shall be held at 10.00 a.m. provided that the time may be varied by the Chairman following consultation with Group Leaders.

*[*Under paragraph 3 of Schedule 12 of the Local Government Act 1972 an extraordinary meeting of the Council may be called at any time by the Chairman of the Council. There is also provision for such a meeting to be requisitioned by any five members of the Council.]*

STANDING ORDER 2 ***Chairman of the meeting***

Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

STANDING ORDER 3
Quorum

If during any meeting of the Council the Chairman after counting the number of members present declares that there is not a quorum* present the meeting shall stand adjourned. The consideration of any business not transacted shall be adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or, if he or she does not fix a time, to the next ordinary meeting of the Council.

*[*Note: The quorum prescribed by statute for meetings of the County Council is one quarter of the whole number of members.]*

STANDING ORDER 4
Order of business

Except as otherwise provided by Standing Order 5 the order of business at ordinary meetings of the Council shall be:-

- (1) to choose a person to preside if the Chairman and Vice-Chairman be absent;
- (2) to deal with any business required by statute to be done before any other business;
- (3) Chairman's announcements;
- (4) to receive the report of the Returning Officer;
- (5) to confirm the minutes of the last meeting of the Council;
- (6) to deal with any business expressly required by statute to be done;
- (7) to answer questions asked under Standing Order 7 (1), (2) and (5);
- (8) to dispose of business (if any) remaining from the last meeting;
- (9) to receive Position Statements under Standing Order 8;
- (10) to consider reports of the Executive, the Scrutiny Commission (the "Commission"), the Scrutiny Committees, the Development Control and Regulatory Board, the Constitution Committee, the Corporate Governance Committee and the Local Pension Committee;
- (11) to appoint the Leader and such Cabinet Support Members as the Council considers appropriate;
- (12) to appoint members of the Commission, boards and committees;

- (13) to consider motions in the order in which notice has been received;
- (14) other business, if any, specified in the summons.

STANDING ORDER 5
Variation of order of business

Business falling under items (1), (2), (4), (5) or (6) of Standing Order 4 shall not be displaced, but subject thereto the foregoing order of business may be varied:-

- (1) by the Chairman at his or her discretion; or
- (2) by a resolution passed at that meeting. A motion to vary the order of business shall be moved and seconded formally and put without discussion.

STANDING ORDER 6
Minutes of the Council

- (1) At a meeting of the Council at which minutes of a previous meeting are submitted for approval as a correct record, the Chairman shall move that those minutes be so approved.
- (2) No motion or discussion shall take place upon the minutes, except upon their accuracy, and any matter concerning their accuracy shall be raised by amendment.
- (3) If no such matter is raised, or if it is raised then as soon as it has been disposed of, the Chairman shall sign the minutes.
- (4) Where in relation to any meeting of the Council the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the Council (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraphs 41(1) and (2) (signing of minutes) of that Schedule.

[Note: paragraph (4) means that there is no requirement to sign the minutes of the previous meeting at an extraordinary meeting - this wording is required by the Local Authorities (Standing Orders) Regulations 1993]

STANDING ORDER 7
Questions from Elected Members

- (1) At a meeting of the Council a member may ask the Chairman of the Council, the Leader, any designated member of the Executive, or the Chairman of the Commission, a board or a committee, any question relating to the business of the Council or of the Executive or which relates to a matter affecting the County. The term "designated member" means any member of the Executive which the Executive from time to time may specify as such for the purposes of this Standing Order.
- (2) At ordinary meetings of the Commission or any board or committee, any member of the Council may ask the chairman of the body concerned any question on any matter in relation to which the body concerned has delegated or advisory functions. The time for dealing with such questions shall immediately follow the item on the agenda for answering questions from electors. This paragraph shall not apply to meetings of the Executive.
- (3) The text of any question shall be submitted in writing to the Chief Executive not less than five clear days before the meeting at which the member proposes to ask the question subject to paragraph (4) of this Standing Order (urgent business).
- (4) The chairman of the meeting may allow the asking of a question which has not been submitted as required by paragraph (3) above, if he or she considers that it relates to urgent business. The text of any such question shall, if possible, be delivered to the Chief Executive not later than 10.00 a.m. on the day before the meeting at which the question is to be asked.
- (5) After a question has been replied to, the member who asked it may, if they are present at the meeting, ask one supplementary question for the purpose of clarifying the reply which has been given. A member asking such a supplementary question shall confine himself or herself to the substance of the original question and shall not introduce any new matter which did not fall within the scope of his or her original question. In paragraphs (7) - (10) of this Standing Order, the word "question" shall include such a supplementary question.
- (6) Every question shall be put and answered without discussion.
- (7) No resolution shall be moved with reference to any question or reply to a question.
- (8) If the chairman of the meeting is of the opinion that the question is out of order, or of a personal character, or in the interests of the Council it is undesirable, he or she shall so inform the member and shall not allow the question to be put.

- (9) Questions asked in pursuance of the above paragraphs of this Standing Order shall be recorded in the minutes of the meeting, and the Chief Executive shall supply the questioner with a copy of the replies thereto within seven working days after the meeting.
- (10) In addition to the right to put questions contained in the foregoing paragraphs, at a meeting of the Council any member may without notice ask the Leader, or the Chairman of the Commission, or the chairman of a board or a committee any question upon an item of the report of the body concerned then before the Council, provided that the question is put before the Council's consideration of that item is concluded.

STANDING ORDER 8
Position Statements

- (1) One or more Position Statements may be presented to the Council by the Leader and any member of the Executive in such form as the person presenting the Position Statement may determine.
- (2) A Position Statement may give rise to an informal discussion by the Council provided that, subject to paragraph (3), no motion or amendment shall be moved during that discussion.
- (3) At the conclusion of any discussion of a Position Statement, a formal motion may be moved to the effect that a particular issue relevant to the Position Statement be referred to the Executive, the Commission, a board or a committee as the case may be, for consideration. Such a motion shall be moved and seconded formally and shall be put without discussion.
- (4) The discussion of any Position Statement shall not exceed twenty minutes but the Chairman, at his or her discretion, may permit an extension of such length as he or she considers appropriate.
- (5) A Position Statement may be presented to the Council by the Chairman of the Scrutiny Commission in such form as he or she may determine. The provisions of paragraphs (2) to (4) shall apply to such a Position Statement.

STANDING ORDER 9
Procedure relating to reports to Council

- (1) A report of the Executive, the Commission, a board or a committee to the Council shall be signed by the chairman of the body concerned unless he or she is unwilling, in which case the deputy chairman of the body shall sign the report, unless he or she also is unwilling.
- (2) At the appropriate place in the order of business of the Council each report shall be taken as read and the member who has signed the report (or in the case of a report of the Cabinet, the Leader or his or her nominee) shall propose any necessary motions for securing the approval by the Council of the recommendations in the report unless at his or her request or with his or her concurrence the Council give leave for recommendations to be amended or for the report to be withdrawn.
- (3) Except in the case of a report of the Cabinet, the motions referred to in the previous paragraph of this Standing Order shall, in the absence of the member who signed the report, be proposed by some other member of the reporting body designated by the Chairman of the Council, who shall give preference to the deputy chairman of the body concerned when the member absent is the chairman of the body. In the case of a report of the Cabinet, a motion may be moved by any member of that body in the absence of, or at the request of, the Leader.
- (4) Two or more bodies may submit a joint report and in such case the motions referred to in paragraph (2) of this Standing Order shall be proposed by the member whose signature to the report appears first.
- (5) The relevant group spokesman for the body concerned may, within three days of a meeting, give notice in writing to the Chief Executive requiring him or her to include in a report of that meeting (for consideration by the Council under this Standing Order or by the Executive or any parent body) a fair reflection of the views of that group in that report.

[Note: Rule 9(b) of the Overview and Scrutiny Procedure Rules in Part 4E of the Constitution provides that where an overview and scrutiny committee cannot agree on a final single report to the Council, then up to one minority report may be prepared and submitted with the majority report.]

STANDING ORDER 10
Notices of motion

- (1) Notice of every motion (other than a motion which under Standing Order 11 may be moved without notice) shall be in writing signed by the member or members of the Council giving the notice and delivered at

least eight clear days before the next meeting of the Council to the Chief Executive, by whom it shall be dated, numbered in the order in which it is received, and shall be available for inspection by every member of the Council.

- (2) There shall be inserted in the summons for every meeting of the Council all notices of motion duly given in the order in which they have been received, unless the member giving such a notice has, when giving it, intimated in writing that he or she proposes to move it at some later meeting or has withdrawn it in writing.
- (3) If a motion of which notice has been given and not withdrawn be not moved by the member who gave notice of it, it may be moved by another member of the Council and if not so moved it shall, unless postponed by consent of the Council, be treated as abandoned and shall not be moved without fresh notice.
- (4) Any notice of motion which would have the effect of materially increasing the expenditure or reducing the revenue of the Council, otherwise than in the form of a proposal that the matter be referred to the Executive for consideration and report, shall not be deemed to have been duly given for the purposes of this Standing Order.
- (5) Any notice of motion which would have the effect of reviewing or rescinding a decision of the Executive taken under delegated powers, otherwise than in the form of a proposal that the matter be referred to the Executive for consideration and report, shall not be deemed to have been duly given for the purposes of this Standing Order.

[Note: In Standing Order 10(5) the phrase "taken under delegated powers" is deemed to cover those matters which are the responsibility of the Executive not only as a matter of local choice but also as a consequence of the operation of the Local Government Act 2000 and any statutory provisions made under that Act.]

- (6) Any notice of motion which would have similar effect to a notice of motion which has already been lodged shall not be deemed to have been duly given for the purpose of this Standing Order, on the basis that any differences can be addressed at the meeting through an amendment to the accepted motion.

STANDING ORDER 11

Motions and amendments which may be moved without notice

Motions and amendments relating to the following matters may be moved without notice:-

- (1) appointment of a chairman of the meeting at which the motion is made;

- (2) the approval of accuracy of the minutes;
- (3) that an item of business specified in the summons have precedence;
- (4) appointment of a body or the members thereof, occasioned by an item mentioned in the summons to the meeting;
- (5) adoption of reports and recommendations of the Executive, the Commission, a board or committee and any consequent resolution;
- (6) authorising the sealing of documents;
- (7) giving consent of the Council where the consent of the Council is required by these Standing Orders;
- (8) any of the motions listed in Standing Order 12 whether or not moved whilst another motion is under debate.

STANDING ORDER 12

Motions which may be moved during debate

When a motion is under debate no other motion shall be moved except the following:-

- (1) to amend the motion;
- (2) to adjourn the meeting;
- (3) to adjourn the debate;
- (4) to proceed to the next business;
- (5) that the proposition under discussion be put;
- (6) that a member be not further heard;
- (7) by the Chairman under Standing Order 18(9) "That the member named do leave the meeting";
- (8) to exclude the public;
- (9) that the subject of debate be referred to the Executive, the Scrutiny Commission a board or committee;
- (10) to extend the time limit for speeches;
- (11) that Standing Orders be suspended under Standing Order 38;

- (12) subject to Standing Order 9(5), that leave be given to alter or withdraw a motion, amendment or report.

STANDING ORDER 13
Rescissions

- (1) No motion to rescind any resolution passed within the preceding six months and no motion to the same effect as one which has been rejected within that period shall be proposed unless at a meeting subsequent to the meeting at which such resolution or rejection was agreed a member moves for consent to propose his or her motion and obtains a majority of those members present at the meeting, in which case notice of the motion shall be inserted in the summons for the next ordinary meeting of the Council.
- (2) This Standing Order shall not apply to a motion moved whilst there is before the Council a recommendation of the Executive, the Commission, a board or committee relating to the matter.

STANDING ORDER 14
Amendments to motions

- (1) Subject to Standing Order 10(5), an amendment shall be relevant to the motion and shall be either:-
- (a) to refer a subject of debate to the Executive, the Commission, a board or a committee for consideration or re-consideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others;
 - (d) to insert or add words;

but such omission, insertion or addition of words shall not only have the effect of negating a motion before the Council.

- (2) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of;

Provided that the Chairman may permit two or more amendments to be discussed (but not voted on) together if he or she considers that this course would facilitate the proper conduct of the Council's business.

- (3) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

STANDING ORDER 15***Alterations or withdrawal of motion or amendment***

- (1) Subject to Standing Order 10 (5), a proposer of a motion may, with the concurrence of the seconder and the consent of the Council, alter the motion if the alteration is such that it could properly be effected by an amendment of the motion. A proposer of an amendment may, with the like concurrence and consent, alter the amendment if the amendment as altered could properly have been moved in that form as an amendment. The altered motion or amendment shall if required by the Chairman be reduced into writing and handed to him or her before the consent of the Council to the alteration is sought.
- (2) A proposer of a motion or of an amendment may, with the concurrence of the seconder and the consent of the Council, withdraw the motion or amendment which he or she has proposed, and no member shall speak upon it after the proposer has thus asked permission for its withdrawal, unless such permission shall have been refused.
- (3) The giving or refusal of the consent of the Council to the alteration or withdrawal of a motion or amendment shall be signified without discussion.

STANDING ORDER 16***Motions and amendments generally***

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded, and unless notice has already been given in accordance with Standing Order 10 it shall, if required by the Chairman, be put into writing and handed to the Chairman before it is further discussed or put to the meeting.
- (2) A member may not propose or second a motion or amendment on which he or she is disqualified from voting.

STANDING ORDER 17***Motions affecting persons employed by the Council***

If any question arises at a meeting of the Council, the Executive, the Commission, a board or a committee as to the appointment, promotion, dismissal, salary, pension, conditions of service or the conduct of any person employed by the Council, such question shall not be the subject of discussion until the body concerned has decided whether or not the power of exclusion of the public shall be exercised.

STANDING ORDER 18***Length of speeches and conduct of members***

- (1) A member shall direct his or her speech to the question under discussion (i.e. it shall be directly relevant to the matter under discussion) or to a point of order or a point of personal explanation or information for the meeting, shall not impute motives or use offensive expressions to or about any other member and shall act in accordance with the role of a County Councillor as set out in Article 2.03 of the Constitution.
- (2) Except in the case of a speech given by a principal speaker which shall not exceed 10 minutes, no speech shall exceed 5 minutes without the consent of the Council, and upon a motion for extension of these time limits no discussion shall be allowed. For the purposes of this Standing Order "principal speaker" shall be the member who moves the adoption of a report or of an item of a report of the Executive, the Commission, a board or a committee or who is designated as being an "appropriate spokesman" of the body concerned and is speaking on such a motion or any amendment to it or the member who moves a motion under Standing Order 10.
- (3) Any extension of time granted to speakers by the Council in pursuance of this Standing Order shall not exceed 10 minutes in the case of a principal speaker or 5 minutes in any other case but the Chairman, at his or her discretion, may permit a further extension if he or she considers that this would facilitate the conduct of the Council's business.
- (4) A member when speaking shall stand and address the Chairman.
- (5) If two or more members rise, the Chairman shall call on one to speak, the other or others shall then sit.
- (6) While a member is speaking the other members shall remain seated, unless rising to a point of order or in personal explanation.
- (7) Whenever the Chairman rises during a debate a member then standing shall resume his or her seat and the Council shall be silent.
- (8) If any member in the opinion of the Chairman signified to the Council, misconduct himself or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, or by tedious repetition or unbecoming language in his or her speech, the Chairman or any other member may move "That the member named be not further heard", and such motion if seconded shall be put and determined without discussion.

- (9) If the member named continues his or her misconduct after a motion under the last previous paragraph has been carried, the Chairman shall either:-
- (a) move "That the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or
 - (b) adjourn the meeting of the Council for such period as he or she in his or her discretion shall consider expedient.

[Note: for the purposes of paragraph (2) above, "appropriate spokesman" has been defined by the Council as follows:

reporting body:	<i>"appropriate spokesman"</i>
Executive:	<i>Leader of the Opposition or his or her nominee</i>
Scrutiny Commission:	<i>Leader or his or her nominee</i>
Scrutiny Committees:	<i>spokesmen of the two Groups to which the chairman of the Scrutiny Committee concerned does not belong</i>
Employment Committee:	<i>spokesmen of the two Groups to which the chairman of the Committee does not belong</i>
Development Control & Regulatory Board:	<i>spokesmen of the two Groups to which the chairman of the Board does not belong</i>
Constitution Committee:	<i>spokesmen of the two Groups to which the chairman of the Committee does not belong</i>
Local Pension Committee:	<i>spokesmen of the two Groups to which the chairman of the Committee does not belong]</i>
Corporate Governance Committee	<i>Spokesmen of the two Groups to which the Chairman of the Committee does not belong</i>

STANDING ORDER 19 ***Secunder's speech***

A member when seconding a motion or amendment may, if he or she then declares his or her intention to do so, reserve his or her speech until a later period of the debate.

STANDING ORDER 20 ***When a member may speak again***

- (1) A member who has spoken on any motion shall not speak again whilst it is the subject of debate except:-
- (a) in exercise of the right of reply given by Standing Order 21;
 - (b) on a point of order or by way of personal explanation or point for information for the Council in accordance with Standing Order 22;

- (c) to alter or withdraw a motion or amendment in accordance with Standing Order 15;
 - (d) to propose or second any of the motions referred to in paragraphs (2) to (12) of Standing Order 12;
 - (e) to second or to speak once on an amendment moved by another member;
 - (f) if the motion has been amended since he or she last spoke, to move a further amendment.
- (2) A member whose first speech was on an amendment moved by another member, may, after that amendment has been disposed of, speak again on the main issue or on any further amendment.

STANDING ORDER 21

Right of reply

- (1) The proposer of a motion shall have the right to reply to the debate:-
- (a) at the close of the debate on the motion;
 - (b) at the close of the debate on an amendment to the motion;
 - (c) before a motion to proceed to next business or that the Council adjourn or a motion or amendment to refer the subject of debate to a Committee is put;
 - (d) after the closure is carried.
- (2) The proposer of an amendment 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.
- (3) A member exercising a right of reply shall strictly confine himself or herself to answering previous speakers to whom he or she has not already had the opportunity of replying and shall not introduce any new matter.
- (4) After every reply to which this Standing Order applies a decision shall forthwith be taken upon the motion or amendment then under discussion.

STANDING ORDER 22 (A)

Points of Order

- (1) A member may rise on a point of order and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision and the member shall specify the Standing Order or statutory provision and the way in which he or she considers it has been broken.

- (2) The ruling of the Chairman on a point of order shall not be open to discussion.

STANDING ORDER 22 (B)

Points of Personal Explanation or Information for the meeting

- (1) A member may rise on a point of personal explanation or point for information for the Council and shall be heard forthwith.
- (2) A point of personal explanation shall be confined to some material part of the former speech by him or her which may have been misunderstood in the present debate.
- (3) A point of information for the meeting shall be confined to correcting a speaker developing their argument on incorrect facts or figures so as to avoid misleading the meeting.
- (4) The ruling of the Chairman on a point of personal explanation or point of information for the Council shall not be open for discussion.

STANDING ORDER 23

Next business etc

- (1) A member who seeks to avoid a decision being taken on a matter under discussion may, at the conclusion of a speech of another member, unless the Chairman considers that the matter has been insufficiently discussed, move "that the Council proceed to the next business" or, if there is no other business to be transacted, "that the Council adjourn".
- (2) The proposer of such a motion may speak thereon for five minutes but the seconding of the motion shall be formal and without comment and there shall be no debate on the motion.
- (3) On the seconding of the motion, the Chairman shall first give the mover of the original motion an opportunity to speak on it for not more than 5 minutes and then put to the vote the motion to proceed to the next business or to adjourn the Council.
- (4) If that motion is carried, the original motion shall be considered as withdrawn.

STANDING ORDER 24

Adjournment of debate

- (1) A member who seeks to interrupt a debate so that it may be continued at a later hour or on another occasion may, at the conclusion of the speech of another member, move that the debate be adjourned to that hour or occasion.

- (2) If the member does not specify an hour or occasion, the motion shall be deemed to intend that the debate shall be resumed at the next ordinary meeting of the Council.
- (3) The proposer of such a motion may speak thereon for five minutes but the seconding of the motion shall be formal and without comment and there shall be no debate on the motion except that the mover of the original motion may speak on it for not more than five minutes.
- (4) On the resumption after adjournment of an interrupted debate, the Council shall proceed to the further consideration of the adjourned business as though the meeting had been continuous for the purposes of these Standing Orders.

STANDING ORDER 25

Closure

- (1) A member may at the conclusion of the speech of another member move "that the proposition under discussion be now put" (which is in these Standing Orders referred to as "the closure").
- (2) The proposal and seconding of the closure shall be formal and without comment and there shall be no debate on it. The closure shall be put forthwith to the vote unless it appears to the Chairman that the proposition to which it is sought to apply the closure has not been sufficiently discussed.
- (3) If the closure is carried, the motion or amendment which is the subject of the interrupted debate shall be put without further discussion, subject to the mover of the original motion, first having the right of reply given by Standing Order 21.

STANDING ORDER 26

Appointments by the Council

- (1) Every candidate nominated to represent the Council in any capacity or for any position to be filled by the Council shall be openly proposed and seconded;
- (2) At the close of nominations the Chairman shall state the names of the candidates who have been duly proposed and seconded and the number of vacancies to be filled if the number is limited;
- (3) If the number of nominations does not exceed the number of vacancies or if the number of vacancies is not limited the Chairman shall forthwith put the appointment of the duly nominated candidates collectively as a substantive motion upon which no amendment may be moved;

- (4) If the number of nominations exceeds the number of vacancies there shall be a secret ballot of the members present at the meeting in which each member of the Council may vote for as many candidates as there are vacancies to be filled;
- (5) Any ballot shall be conducted by the Chief Executive whose return shall be final and conclusive;

Provided that no candidate shall be appointed unless the number of votes cast in his or her favour exceeds half the number of persons voting. If in any ballot no candidate receives the number of votes entitling him or her to be appointed, the names of those who receive no votes and the name of the one who receives the least number of votes shall be struck off the list and a fresh ballot be taken, and so on, until all the vacancies are filled.

STANDING ORDER 27

Appointments at the Annual Meeting of the Council

At the Annual Meeting of the Council the procedure for the appointment of the Leader, Cabinet Support Members and those members of the Commission and of the boards and committees who are to be appointed by the Council shall be as set out below, and Standing Orders 10, 11 and 26 shall not apply for the purpose of such appointments:-

- (a) The Chairman of the Council shall invite proposals, each of which shall be in the form of a list of candidates nominated for all the vacancies to be filled; it shall not be in order to propose a list of nominations which does not deal with all the appointments which are to be made at the meeting.
- (b) No amendment may be moved in respect of any list of nominations.
- (c) The Chairman shall then put to the Council for decision the lists of nominations proposed and seconded. Each member shall have one vote only to be cast in favour of one list of nominations.
- (d) If there is more than one list of nominations there shall be a series of votes. After each vote, the list which has attracted the least number of votes shall be struck out and a further vote taken, and so on until one list receives a majority of the members of the Council present and voting.
- (e) The Chairman shall declare appointed those members named in the list of nominations which attract the majority of votes.

STANDING ORDER 28***Voting***

- (1) Every proposition shall, unless otherwise required by these Standing Orders or Statute, be determined by show of hands or, at the discretion of the Chairman, by voices.
- (2) If an automatic system of recording votes is in operation, the Chairman shall have power to order votes to be given and counted in accordance with the system.
- (3) In taking the votes on any proposition, those members only shall be entitled to vote who are present in the Council Chamber when the proposition is put from the Chair.
- (4) A vote on any proposition at a budget meeting which relates to the calculation of or the issuing of the precept shall be recorded in the minutes of the meeting so as to show whether each member present gave his or her vote for or against the proposition or abstained from voting.
- (5) After a proposition is put from the Chair but before the vote is taken, any five members rising in their places may require that the voting shall be recorded in the minutes of the meeting so as to show whether each member present gave his or her vote for or against that proposition or abstained from voting.
- (7) Where immediately after a vote is taken any member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his or her vote for the question or against the question or whether he or she abstained from voting.

STANDING ORDER 29***General disturbances***

- (1) If a member of the public interrupts the proceedings at any meeting the Chairman shall warn him or her. If he or she continues the interruption the Chairman shall order his or her removal from the room. In case of general disturbance in any part of the room open to the public the Chairman shall order that part to be cleared.
- (2) If, in the opinion of the Chairman, misconduct or obstruction renders the due and orderly dispatch of business impossible, the Chairman, in addition to any other power vested in him or her, may without the question being put suspend the meeting for a period not exceeding 30 minutes.

STANDING ORDER 30
Interests in contracts and other matters

If any member of the Council has any interest under the County Council's Code of Conduct in any contract, proposed contract, or other matter, that member shall declare that interest and withdraw from the meeting while the contract, proposed contract, or other matter, is under consideration by the Council unless the disability to discuss that matter imposed upon him or her by the Code has been removed by the Corporate Governance Committee.

[Note: The County Council is required by law to maintain a register of certain types of interests. All elected members must give notice to the Monitoring Officer of interests covered within 28 days of being elected. Members are also required to ensure that interests are declared at meetings in accordance with legislation and Standing Order 30 above and that any disclosable interests declared at meetings which are not in the Authority's register are notified to the monitoring officer within 28 days of disclosure. By law the Register is open to public inspection. As a matter of good practice the County Council has determined that members should be required to keep the register up to date by notifying the monitoring officer of any changes within 28 days of their occurrence.]

STANDING ORDER 31
Chairmanship of the Executive, the Commission, boards and committees

- (1) The Leader shall be appointed by the Council and shall hold office subject to Article 7 of the Constitution. The Leader and Deputy Leader (where appointed) shall *ex-officio* respectively act as the chairman and deputy chairman of the Executive.
- (2) The Leader of the numerically largest opposition party shall be the Leader of the Opposition and shall *ex-officio* act as the Chairman of the Commission. The deputy chairman of the Commission shall be appointed by the Commission from amongst its members.
- (3) Except where otherwise agreed by the Council, each board or committee shall appoint its chairman and deputy chairman from amongst its members.
- (4) The deputy chairman of the Commission and the chairman and deputy chairman of a board or committee shall hold office until:
 - (a) he or she resigns;
 - (b) he or she is suspended by the Group (although he or she may resume office at the end of the period of suspension);
 - (c) he or she is no longer a county councillor;
 - (d) he or she is removed from office by the appointing body; or

- (e) the meeting of the appointing body next following the Annual Meeting of the Council after his or her appointment.
- (5) The appointment of the deputy chairman of the Commission and the chairman and deputy chairman of a board or committee shall be conducted in the same way as an appointment is required to be made by the Council under Standing Order 26.
- (6) Subject to paragraph (8) of this Standing Order the deputy chairman of the Executive, Commission, board or committee shall preside at all meetings of the body concerned at which he or she is present in the absence of the chairman.
- (7) If both the chairman and deputy chairman of the Executive, Commission, board or committee are absent from a meeting, the members present shall choose one of their number who is a member of the Council to preside over the meeting subject to paragraph (8) of this Standing Order.
- (8) If the chairman of the Executive, Commission, board or committee arrives at a meeting of the body concerned or if the deputy chairman arrives at such a meeting from which the chairman is absent after the time for which the meeting has been summoned he or she shall preside over the meeting after any question under discussion on his or her arrival has been disposed of but not before then.

STANDING ORDER 32

Meetings of the Executive, the Commission, boards and committees

- (1) The Leader as chairman of the Executive, the Leader of the Opposition as Chairman of the Commission, or the chairman of a board or a committee or the Chairman of the Council may cause a special meeting of the body concerned to be called at any time. In the absence of the chairman of the body concerned the deputy chairman may exercise the powers conferred on the chairman by this Standing Order.
- (2) A special meeting of the Executive, the Commission, a board or a committee or subcommittee shall be called on the request of at least one quarter of the whole number of members of the body concerned by notice in writing signed by them and given to the Chief Executive and specifying the business for which the meeting is to be called.
- (3) In relation to meetings of the Scrutiny Commission and Scrutiny Committees, a political group may give notice in writing to the Chief Executive delivered at least eight clear days before the next meeting that they wish the item of business specified in the notice to be included in the agenda for consideration at that meeting. Such notice shall include an explanation of the reasons underlying the request and the purpose to be achieved.

- (4) In relation to meetings of the Scrutiny Commission and Scrutiny Committees, the Commission or Committee may, by resolution, require a relevant member of the Executive or chief officer to attend a meeting to provide information or answer questions.

STANDING ORDER 33

Proceedings of the Executive, the Commission, boards or committees

- (1) The quorum of the Executive, Commission, board or committee, unless a special quorum is otherwise prescribed, shall be at least one quarter of the whole number of the body concerned, provided that in no case shall a quorum be less than three members.
- (2) Any Council member may attend as an observer at meetings of the Commission, boards or committees (except those meetings which the County Council may from time to time determine for the purposes of this Standing Order) to which he or she has not been appointed as a member, including meetings or items of business from which the public has been excluded. If given permission by the chairman of the meeting, a member attending as an observer may speak (but not vote) on any matter.
- (3) Any Council member may attend as an observer at decision-making meetings of the Executive, including meetings or items of business from which the public has been excluded. If given permission by the chairman of the meeting, a member attending as an observer may speak (but not vote) on any matter.
- (4) Subject to the provisions of Section 100 of the Local Government Act 1972, all reports and all documents marked as "confidential" or "not for publication" shall be treated as confidential until they become public in the ordinary course of the Council's business.
- (5) No act of a subcommittee shall have effect until approved by the appointing board or committee except to the extent that the board or committee has itself power to act without the approval of the Council and the power so to act has been conferred upon the subcommittee.
- (6) In addition to those Standing Orders which expressly relate to the Executive, the Commission, boards or committees, Standing Orders 7, 14 to 19 inclusive, 21 to 26 inclusive and 28 to 30 inclusive, shall apply with any necessary modification to the Executive, Commission, boards or committees.

STANDING ORDER 34***Questions from electors at the Commission, boards or committees***

- (1) At any ordinary meeting of the Commission, a board or committee to which the press and public are admitted, any elector registered within the County may, subject to this Standing Order, ask the chairman of the body concerned any question on any matter in relation to which the body concerned has powers and duties. This Standing Order shall not apply to meetings of the Executive.
- (2) Any question shall be submitted in writing to the Chief Executive not less than five clear days before the meeting at which the elector proposes to ask the question.
- (3) The Chief Executive may decline to accept a proposed question if in his or her opinion it is:
 - (a) not relevant to the functions of the body concerned;
 - (b) is otherwise offensive, frivolous or defamatory;
 - (c) is substantially similar to a question which has been put at a meeting in the past six months; or
 - (d) requires the disclosure of confidential or exempt information.
- (4) The period allowed for the putting and answering of questions shall be ten minutes, commencing immediately following the confirmation of the minutes of the previous meeting, but it shall be open to any member of the body concerned to move an extension of this period should there be questions remaining unanswered. Such a motion shall be moved and seconded formally and be put without discussion.
- (5) Questions shall be put and answered in the order in which they were received and accepted by the Chief Executive.
- (6) After a question has been replied to, the elector who asked it may, if they are present at the meeting, ask one supplementary question for the purpose of clarifying the reply which has been given. An elector asking such a supplementary question shall confine himself or herself to the substance of the original question, and shall not introduce any new matter which did not fall within the scope of his or her original question. If the chairman of the meeting is of the opinion that the supplementary question is out of order, or of a personal character, or in the interests of the Council it is undesirable, he or she shall so inform the elector and shall not allow the question to be put. In paragraph (7) of this Standing Order, the word "question" shall include such a supplementary question.
- (7) There shall be no discussion on the question or the answer, but a member of the body concerned may propose that the subject matter of the question be placed on the agenda of the next ordinary meeting of

the body concerned. Such a motion shall be moved and seconded formally and be put without discussion.

STANDING ORDER 35

Petitions at the Commission, boards or committees

[Note: This Standing Order should be considered alongside the Petitions Scheme set out in Part 10 of the Council's Constitution.]

- (1) Petitions may be presented at meetings of the Commission, a board or committee in accordance with the conditions set out in the Petitions Scheme at Part 10 of this Constitution. The Commission, board or committee shall receive only such petitions as have been lodged with the Chief Executive eight clear days before the meeting and are presented by a person who resides, studies or works in the County and/or is a recipient of County Council services and is associated with the petition. Petitions can also be presented by an elected member on behalf of such a person or can be considered in their absence. This Standing Order shall not apply to meetings of the Council or the Executive, subject to paragraphs (5) and (6) below.
- (2) Every petition shall be couched in proper language and be relevant to some question over which the Council or the Commission or board or committee concerned have authority, or which otherwise affects the County and shall involve a call for action. Signatories should record their name, address (and email address for electronic petitions) and date they signed the petition, and any residential, work or study addresses. The Chief Executive shall have the right to refuse to accept any petition which is considered to be frivolous, vexatious, discriminatory or otherwise inappropriate.
- (3) If the petitioner is present and wishes to do so, he or she may speak but only to the extent of formally repeating the wording of the petition and stating the number of signatories to it. The Commission, board or committee shall then debate the question raised by the petition at that meeting.
- (4) Nothing in this Standing Order will prevent a petition being presented elsewhere provided that it relates to a matter which is already before the body concerned.
- (5) Where a petition attracts significant support from the local community, defined as being signed by at least 10,000 persons living, working or studying in the Authority's area, it will be considered at a meeting of the full County Council.
- (6) Where a body considering a petition believes that a wider debate can be justified, it may report to a meeting of the full County Council, regardless of the number of signatories to that petition.

- (7) If the petition organiser feels unhappy with the way their petition was handled he/she can request that the Council review the steps taken in response to the petition. The petition organiser should contact Democratic Services and provide an explanation of the reasons why the way the petition has been dealt with is not considered to be adequate. The Council will consider the request and respond accordingly within 10 working days.

STANDING ORDER 36

Variation and revocation of Standing Orders

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

STANDING ORDER 37

Suspension of Standing Orders

- (1) Subject to paragraph (2) of this Standing Order, any of the preceding Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved.
- (2) A motion to suspend any of the preceding Standing Orders shall not be moved without notice unless there shall be present at least one-half of the whole number of the members of the Council.

STANDING ORDER 38

Interpretation of Standing Orders

The ruling of the Chairman as to the construction or application of any of these Standing Orders, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

[end of Meeting Procedure Rules]

[Note: the County Council has determined the following meetings for the purposes of Standing Order 33(2):

*Adoption Panel;
Appointment Committee (Chief Officer);
Approval of Premises Panel (Civil Marriages);
Children's' Social Care Panel*

Complaints Panel (School Curriculum and Religious Education);
County Council Employment Panel;
Disputes Panel;
Fostering Panel;
Guardianship Panel;
Member Conduct Panel;
Representations Panel (Independent providers of adult social care);
]

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Part 4 B

Access to Information Procedure Rules

Part 4B - Access to Information Procedure Rules

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- 23 Decisions by individual members of the Executive and officers
- 24 Overview and scrutiny committees access to documents
- 25 Additional rights of access for members

Schedule: Exempt information

[Note: in various Rules in this Part, there are references to a period of notice for meetings, which is presently five days. The Government may make statutory regulations amending this period; if such regulations are made, then the relevant Rules will need to be read in the light of any changes brought about by those regulations. Similarly, the Government may amend the statutory definition of exempt information, which appears in the Schedule to these Rules; if such changes are made then the Schedule will be amended.]

The Government makes reference to clear days. Case law defines this as meaning, in effect, working days. Thus weekends and other days on which the Council's offices are closed are excluded as are the day of despatch and the day of the meeting.]

Part 4B - Access to Information Procedure Rules

RULE 1

Scope

These rules apply to all meetings of the County Council, overview and scrutiny committees, area committees (if any), the Member Conduct Panel and Regulatory boards and committees, and public meetings of the Executive (together called “meetings”).

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

- (1) Members of the public may attend all meetings subject only to the exceptions in these Rules.
- (2) Members of the public attending meetings not covered by the exceptions in these rules shall be permitted to report on the proceedings of such meetings. Such reporting shall include filming or providing a commentary on proceedings using social media tools, providing that any such reporting does not cause obstruction so as to render the due and orderly despatch of business impossible.

RULE 4

Notices of meeting

The County Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall. It will also publish such details on its website.

RULE 5

Access to agenda and reports before the meeting

- (1) The County Council will make copies of the agenda and reports open to the public available for inspection at County Hall at least five clear days before the meeting and will publish these on its website. 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 Chief

Executive shall make each such report available to the public as soon as the report is completed and sent to County Councillors.

- (2) Where it is proposed to consider a matter in private at a meeting of the Executive, the agenda for that meeting will include:-
- (a) a statement of the reasons for the matter being considered in private;
 - (b) details of any representations received about why the matter should be considered in public;
 - (c) a statement of the response to any such representations;
 - (d) where the item has not been included on the Forward Plan and the agreement of the relevant persons has been obtained to enable the matter to be considered in accordance with Rule 16, a statement as to why the matter is urgent and cannot reasonably be deferred.
- (3) As the agenda for meetings of the Executive must be made available to the public and published on the Council's website, that document will constitute the necessary notices required under Section 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

RULE 6 ***Supply of copies***

The County Council will supply copies of:

any agenda and reports which are open to public inspection;
any further statements or particulars necessary to indicate the nature of the items in the agenda; and
if the Chief Executive thinks fit, any other documents supplied to County Councillors in connection with an item to any person;

on payment of a charge for postage and any other costs.

RULE 7 ***Access to minutes and decisions***

The County Council will make available copies of the following 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 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 8 ***Background papers***

The Proper Officer (in this context, 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 his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political adviser (if any has been appointed).

The County 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. In the case of reports submitted to the Executive, background papers will also be published on the County Council's website.

RULE 9 ***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 County Hall. As the Constitution must be available to the public, then these Rules constitute the written summary.

RULE 10 ***Exclusion of access by the public to 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) 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.

- (3) “Confidential information” means information given to the County Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.
- (4) “Exempt information” means information falling within the statutory categories (subject to any qualification) described in the schedule to these Rules. Information is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992. 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.

RULE 11

Exclusion of access by the public to reports

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

RULE 12

Application of Rules to the Executive

- (1) Rules 13 to 25 apply to the Executive and its committees (if any). If the Executive or its committees meet to take a Key Decision then it must also comply with Rules 1 to 11 unless Rule 15 (general exception) or Rule 17 (special urgency) apply. A Key Decision is as defined in Article 13.03 of this Constitution.
- (2) If the Executive or its committees (if any) meet to discuss a Key Decision, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 to 11 unless Rule 15 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

RULE 13

Procedure before taking Key Decisions

Subject to Rule 15 (general exception) and Rule 17 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) 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 4 (notice of meetings).

[Note: a Key Decision is defined, in principle, in Article 13.03 in Part 2 (Articles). The local working definition of a Key Decision is in Rule 8 in Part 4D (Executive Procedure Rules)]

RULE 14 ***The Forward Plan***

- (1) At least 28 clear days before decisions of the nature set out in paragraph (2) are to be taken by a decision making body exercising executive functions the Chief Executive will produce a Forward Plan setting out the details. The Forward Plan will be published on the County Council's website and made available for inspection by members of the public.
- (2) The Forward Plan will contain matters which are considered to involve:-
 - (a) a key decision, and/or
 - (b) a matter where it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential or exempt information would be disclosed and therefore it is proposed that the public be excluded from the meeting (i.e. the matter will be considered in private).
- (3) Where a decision maker intends to make a key decision the Forward Plan will describe the following particulars in so far as the information is available or might reasonably be obtained:-
 - (a) that a key decision is to be made on behalf of the County Council
 - (b) the matter in respect of which the decision is to be made;
 - (c) where the decisions 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;
 - (d) the date on which, or the period within which, the decision is to be made;
 - (e) 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;
 - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

- (g) that other documents relevant to those matters may be submitted to the decision maker; and
 - (h) the procedure for requesting details of those documents (if any) as they become available.
- (4) Where a matter is to be considered in private the Forward Plan will give notice of the Authority's intentions and will give a statement of the reasons for doing so.

RULE 15

General exception

- (1) If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rules 16 (confidential and exempt items) and 17 (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 included in the next Forward Plan;
 - (b) the Chief Executive has informed the chairman of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter on which the decision is to be made and the reasons why inclusion on the Forward Plan is impractical;
 - (c) the Chief Executive has made copies of that notice available to the public at County Hall and the notice has been published on the Council's website; and
 - (d) at least five clear days have elapsed since the Chief Executive complied with (b) and (c).

RULE 16

Confidential and Exempt Items

Where confidential or exempt items have not been included on the Forward Plan in accordance with Rule 14 the matter may still be considered where agreement that the matter is urgent and cannot reasonably be deferred has been obtained from:-

- (a) the chairman of the relevant overview and scrutiny committee; or
- (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the agreement of the chairman of the County Council or in his/her absence the vice-chairman will suffice.

RULE 17
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 decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred.
- (2) If there is no chairman of a relevant overview and scrutiny committee, or if the chairman of each relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the County Council, or in his/her absence the Vice-chairman will suffice.
- (3) The decision taker must make available to the public a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and must publish that notice on the County Council's website.

RULE 18
Report to County Council

- (1) If an overview and scrutiny committee thinks that a Key Decision has been taken which was not:
 - (a) included in the Forward Plan; or
 - (b) the subject of the general exception procedure; or
 - (c) the subject of an agreement with a relevant overview and scrutiny committee chairman, or the chairman / vice-chairman of the County Council under Rule 17;

the committee may require the Executive to submit a report to the County Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the committee when so requested by its chairman or any four of its members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

- (2) The Executive will prepare a report for submission to the next available meeting of the County Council. However, if the next meeting of the County 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 County Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

- (3) In any event the Leader will submit annual reports to the County Council on any Executive decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding twelve 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 19 ***Record of decisions***

After any meeting of the Executive or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting will as soon as practical produce a statement of every decision taken at the meeting. The statement will include:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

RULE 20 ***Executive meetings relating to matters which are not Key Decisions***

Subject to Article 7.06(a) in Part 2 of this Constitution, the Executive will decide whether meetings relating to matters which are not Key Decisions will be held in public or private.

[Note: in Rules 21, 22 and 25(1) "private meeting of the Executive" means a meeting of the Executive at which decisions which are not Key Decisions are taken and which the Executive has decided should be held in private, as permitted by the Local Government Act 2000. Rule 20 restates the powers given to the Executive to do this by the Local Government Act 2000. However, in adopting this Constitution the County Council decided, with the concurrence of the then Executive, that all meetings of the Executive where any executive decisions (of whatever kind) are to be taken will be held in public, except where the public may be excluded in accordance with Rule 10. Therefore, while that County Council decision remains in operation and is reflected in Article 7.06(a), Rule 20 is effectively suspended and the provisions relating to "private meeting of the Executive" in Rules 21, 22 and 25(1) are of no practical effect]

RULE 21***Notice of private meeting of the Executive***

Members of the Executive or its committees will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

RULE 22***Attendance at meetings of the Executive and its committees***

- (1) All members of the Executive will be served notice of a private meeting of a committee of the Executive (if any), whether or not they are members of that committee, and will be entitled to attend and speak at that meeting.
- (2) Members other than Executive members will not be entitled to attend private meetings of the Executive, and its committees.
- (3) In accordance with Standing Order 34(3) in Part 4A, any Council member may attend as an observer at decision-making meetings of the Executive, including meetings or items of business from which the public has been excluded. If given permission by the chairman of the meeting, a member attending as an observer may speak (but not vote) on any matter.
- (4) The Chief Executive as Head of the Paid Service, the Chief Finance Officer, and the Director of Law and Governance as Monitoring Officer (and their nominees) are entitled to attend any meeting of the Executive and its committees where any executive decisions are to be taken.
- (5) Where the Executive meets in private and without an officer being present, the person presiding will have responsibility for compliance with any relevant requirements of Rule 19 (recording and publicising decisions).

RULE 23***Decisions by individual members of the Executive and officers***

- (1) Where an individual member of the Executive receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until at least 28 clear days notice has been given.
- (2) 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 chairman of every

relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

- (3) As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive, he/she will prepare, or instruct the Chief Executive to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision and, in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.
- (4) As soon as reasonably practicable after an officer has made a relevant executive decision, he/she must produce a written statement which includes a record of the decision including the date it was made, a record of the reasons for the decision, details of any alternative options considered and rejected by the officer when making the decision, a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision and in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.
- (5) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant (if any).

[Note: in adopting this Constitution the County Council decided, with the concurrence of the Executive, that no executive decisions will be taken by individual members of the Executive. Therefore, while that decision remains effective and is reflected in Article 7.08, those parts of Rule 23 which relate to such decisions have no practical effect]

RULE 24

Overview and scrutiny committees access to documents

- (1) Subject to paragraph (2) of this Rule, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to
 - (a) any business transacted at a public or private meeting of the Executive or its committees;
 - (b) any decision taken by an individual member of the Executive; or
 - (c) any decision taken by an officer of the authority in accordance with executive arrangements.
- (2) An overview and scrutiny committee will not be entitled to:

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

RULE 25

Additional rights of access for members

- (1) All members of the County Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting, unless either (a), (b) or (c) below applies:
 - (a) It contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
 - (b) It contains information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract.
 - (c) It contains the advice of a political adviser.
- (2) All members of the County Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any Key Decision unless paragraph (a) or (b) above applies.
- (3) These rights of a member are additional to any other right he/she may have.

**SCHEDULE
EXEMPT INFORMATION (RULES 10 AND 24)**

**(N.B. Paragraph numbers of the categories mirror those contained in
Schedule 12A of the Local Government Act 1972)**

[NOTE – All categories are subject to the application of a public interest test – see note at the end of this schedule.]

CATEGORY	QUALIFICATIONS/DEFINITIONS
1 Information relating to any individual.	
2 Information which is likely to reveal the identity of an individual.	
3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is not exempt information if it is required to be registered under –</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993 <p>‘financial or business affairs’ includes contemplated, as well as past or current, activities</p> <p>‘registered’ in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act)</p>
4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	<p>‘employee’ means a person employed under a contract of service</p> <p>‘labour relations matter’ means –</p> <ul style="list-style-type: none"> (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;

CATEGORY	QUALIFICATIONS/DEFINITIONS
	<p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>'office-holder', in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>
<p>5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6 Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	
<p>7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

Public Interest Test – Paragraph 10

The above 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.

Town and Country Planning

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.

[end of Access to Information Procedure Rules]

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Part 4 C

Budget and Policy Framework Procedure Rules

Part 4C - Budget and Policy Framework Procedure Rules

RULE 1

The Framework for Executive decisions

The County Council will be responsible for the adoption of its Budget (which includes both the annual revenue budget and the capital programme) and for the adoption of each of the Plans which comprise the Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive to implement it.

RULE 2

Process for developing the Policy Framework

The process by which the Plans comprising the Policy Framework are developed will be:

- (a) The Policy Framework will usually be developed through the work of the *ad hoc* review panels and as a product of the roll-forward of the Plans which form part of the Policy Framework. Those undertaking any review and roll-forward process will canvass the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. The results of a review or roll-forward process will be presented to the Executive for consideration.
- (b) The Executive's proposals in response to the review or roll-forward process will be referred to the relevant overview and scrutiny committee for any further advice and consideration. The overview and scrutiny committee will canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, but having particular regard not to duplicate any consultation carried out earlier. The overview and scrutiny committee will report to the Executive on the outcome of its deliberations. The overview and scrutiny committee will have four weeks to respond to the initial proposals of the Executive unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the overview and scrutiny committee of the time for response when the proposals are referred to it.
- (c) The Executive, if it considers it appropriate, may amend its proposals having considered the report of the overview and scrutiny committee. If the Executive's final proposals do not require submission to the County Council because they are within the approved Policy Framework and/or Budget, then those proposals may be implemented by the Executive without reference to the County Council. If the

Executive's proposals do require submission to the County Council, then they will be submitted to the County Council for consideration. The Executive will also report to County Council on how it has taken into account any recommendations from the overview and scrutiny committee.

- (d) The County Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place. In considering the matter, the County Council shall have before it the Executive's proposals and any report from any relevant overview and scrutiny committee.

RULE 3

Process for approving the Budget

The County Council adopts a Medium Term Financial Strategy which sets out the financial proposals for the County Council for a four year period. This will be reviewed and updated annually. The process by which the Budget is approved will be:

- (a) In early December the Executive will consider and determine its budget strategy. This will enable detailed budget proposals to be determined taking into account any developments and particularly any announcement from the Secretary of State concerning local government finance.
- (b) By mid-January the Executive will publish its detailed budget proposals and will refer them to the relevant overview and scrutiny committee(s) for consideration. The overview and scrutiny committee(s) will have at least three weeks to respond to the detailed budget proposals of the Executive unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the overview and scrutiny committee(s) of the reasons why and of the time for response when the detailed budget proposals are referred to it.
- (c) The Executive may, if it considers it appropriate, amend its detailed budget proposals in time for submission to the Budget Meeting of the County Council, alerting the Chairman of the Scrutiny Commission to any major changes so that if appropriate and practical these can be the subject of further consideration by the Scrutiny Commission.
- (d) Changes to the Budget and Policy Framework are reserved to the County Council.

RULE 4

Council decision and Leader's objection

- (a) The County Council's decision on the Policy Framework or Budget will be publicised in accordance with Article 4 and a copy shall be given to

the Leader. The notice of decision will be dated and will state either that the decision shall be effective immediately (if the County Council accepts the Executive's proposals without amendment) or (if the Executive's proposals are not accepted without amendment), that the County Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.

- (b) If the Leader objects to the decision of the County Council, he/she will give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive will convene a further meeting of the County Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (c) The County Council meeting must take place within 21 working days of the receipt of the Leader's written objection. At that County Council meeting, the decision of the County Council will be reconsidered in the light of the objection, which will be available in writing for the County Council.
- (d) The County Council will at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (e) The Leader may, in respect of a specific decision of the County Council, waive his/her right of objection as described in paragraph (a) above if he/she deems that the interests of the County Council will be better served if the County Council's decision (even though it represents an amendment to the Executive's proposals) is acceptable and should be implemented immediately. The Leader may signify his/her waiver (which will be irrevocable) verbally at any time during the County Council meeting or in writing at any time during the five working days thereafter. If made at the meeting, the Leader's waiver will be recorded in the minutes. If made after the meeting, the Chief Executive will keep the written waiver and its existence will be noted in the minutes of the meeting involved.

RULE 5

Decisions outside the Budget or Policy Framework

- (a) Subject to the provisions of Rule 7 (virement) the Executive, committees of the Executive, individual members of the Executive and any officers, area committees or joint arrangements discharging Executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by

full County Council, then that decision may only be taken by the County Council, subject to Rule 6 below.

- (b) If the Executive, committees of the Executive, individual members of the Executive and any officers, area committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance 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 of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the County Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 6 (urgent decisions outside the Budget and Policy Framework) shall apply.

[Note: the County Council decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting or by professional officers under the published schemes of delegation. While that decision remains effective and is reflected in Article 7.08, those provisions in Rules 5 and 6 which relate to individual members of the Executive have no practical effect]

[Note: the County Council has yet to decide to appoint area committees.]

RULE 6

Urgent decisions outside the Budget or Policy Framework

- (a) The Executive, a committee of the Executive, an individual member of the Executive or officers, area committees or joint arrangements discharging Executive functions may take a decision which is contrary to the County Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full County Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full County Council; and
 - (ii) if the chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full County Council and the chairman of the relevant overview and scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of a relevant overview and scrutiny committee the consent of

the Chairman of the County Council, and in the absence of both, the Vice-chairman, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available County Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

RULE 7 ***Virement***

Steps taken by the Executive, a committee of the Executive, an individual member of the Executive, officers, area committees or joint arrangements discharging Executive functions to implement County Council policy shall not exceed those budgets allocated. Such bodies or individuals shall be entitled to vire across budget heads in accordance with the Standard Financial Instructions made under the Financial Procedure Rules in Part F.

RULE 8 ***In-year changes to Policy Framework***

The responsibility for agreeing the Budget and Policy Framework lies with the County Council, and decisions by the Executive, a committee of the Executive, an individual member of the Executive or officers, area committees or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the County Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

RULE 9 ***Call-in of decisions outside the Budget or Policy Framework***

- (a) Where an overview and scrutiny committee 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 County Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be addressed to the Executive, with a copy to every member of the County

Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report and to prepare a report to County Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the overview and scrutiny committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the overview and scrutiny committee may refer the matter to County Council. In such cases, no further action will be taken in respect of the decision or its implementation until the County Council has met and considered the matter. The County Council shall meet within 21 days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The County Council may either:
- (i) endorse a decision or proposal of the Executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the County Council be minuted and circulated to all county councillors in the normal way; or
 - (ii) amend the County Council's financial arrangements or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the County Council be minuted and circulated to all county councillors in the normal way; or
 - (iii) where the County Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

[end of Budget and Policy Framework Rules]

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Part 4 D

Executive Procedure Rules

Part 4D - Executive Procedure Rules

RULE 1

The discharge of Executive functions

The arrangements for the discharge of Executive functions are set out in the Executive Arrangements adopted by the County Council. Article 7.08 prohibits the delegation of Executive functions to individual members of the Executive. Subject to Article 7.08 the Leader may decide how Executive functions are to be exercised. In either case, the Executive Arrangements or the Leader may provide for Executive functions to be discharged by:

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

[Note: while the County Council decision reflected in Article 7.08 remains in operation, the provisions in Rules 1 and 2 which relate to an individual member of the Executive will have no practical effect.]

RULE 2

The delegation of Executive functions

- (a) Subject to Article 7.08, at the annual meeting of the County Council, the Leader will present to the County Council a written record of any delegations made by him or her for inclusion in the County Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:
 - (i) the extent of any authority delegated to Executive members individually, including details of the limitation on their authority;
 - (ii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
 - (iii) the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and
- (b) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an Executive function, they may delegate further to an area committee, joint arrangements or an officer.

- (c) Unless the County Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or to an officer.
- (d) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (e) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

RULE 3

The County Council's Scheme of Delegations and Executive functions

- (a) Subject to (b) below the County Council's Scheme of Delegations will be subject to adoption by the County Council and may only be amended by the County Council. It will contain the details required in Article 7.07 and set out in Part 3 of this Constitution.
- (b) Subject to Article 7.08, the Leader may amend the Scheme of Delegations relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Chief Executive will present a report to the next ordinary meeting of the County Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he or she has served it on its chairman.

RULE 4

Conflicts of Interest

- (a) Conflicts of interest for the Leader and/or other members of the Executive should be dealt with having regard to the County Council's Code of Conduct for Members in Part 5 of this Constitution. Dispensation may be granted where appropriate in accordance with any legislation applying for the time being.
- (b) If the exercise of an Executive function has been delegated to a committee of the Executive, an individual member or an officer, and

should a conflict of interest arise, then the function will be exercised by the person or body by whom the delegation was made.

RULE 5 ***Executive Meetings***

- (a) The meetings of the Executive will be conducted in accordance with those Standing Orders in the Meeting Procedure Rules in Part 4A of this Constitution which are relevant to the Executive.

[Note: The “Executive” means the Leader and Cabinet, and a meeting of the Executive will usually, in the normal course of the County Council’s business, be referred to as a “Cabinet Meeting”. The relevant Standing Orders are 33 and 34, which in turn apply Standing Orders 14 to 19, 21 to 26 and 28 to 30, with any necessary modification.]

- (b) The Executive will observe those requirements of the Access to Information Procedure Rules in Part 4B of this Constitution.

RULE 6 ***Consultation***

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and 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 ***Executive agenda***

- (a) The Leader will decide upon the schedule for the meetings of the Executive. He or she may put on the agenda of any Executive meeting any matter which he or she wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader’s requests in this respect.
- (b) Any member of the Executive may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.
- (c) The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant

overview and scrutiny committee or the full County Council have resolved that an item be considered by the Executive.

- (d) Any member of the County Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the County Councillor who asked for the item to be considered. The individual member may attend the meeting in accordance with Standing Order 34 in the Meeting Procedure Rules in Part 4A of this Constitution.
- (e) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

RULE 8

Working definition of "Key Decision"

For the purposes of Article 13.03 (Types of decision) and Rule 14 of the Access to Information Procedure Rules (Part 4B), a decision which falls within any of the following working definitions will be deemed to be a Key Decision for the purpose of making decisions and will be dealt with accordingly:

- (i) a report proposing changes or additions to the Plan Framework (as defined in the Constitution), arising from the Plans Roll-forward or otherwise;
- (ii) a report in connection with the preparation of the annual revenue budget;
- (iii) a report in connection with the preparation of the capital programme;
- (iv) a report proposing specific action which is outside the Plan Framework, annual revenue budget or capital programme previously approved by the County Council;
- (v) a report of a Review Panel (which has conducted a review: commissioned by the Executive; or by an overview and scrutiny committee) which requires a decision to be made by the Executive;
- (vi) expenditure or savings which the Chief Finance Officer together with the Director of Law and Governance consider to be

significant having regard to the budget for the service or function to which the decision relates;

- (vi) a report proposing action which the originator of the report, in consultation with his or her chief officer, believes may have a significant impact on communities living or working in an area comprising two or more County Council electoral divisions;
- (vii)* a report proposing the closure of, or reduction by more than ten percent in the level of service (for example in terms of funding, staffing or hours of operation) provided from, any facility from which County Council services are provided; or
- (ix) a report which in the opinion of the Chief Executive or Monitoring Officer involves a material departure from a policy or plan previously agreed at elected member level.

*[*Note: Where the closure or reduction is as a result of time-limited external funding coming to an end and there is no reasonable prospect of continuing the service, other than on a transitional basis, this provision does not apply.]*

[end of Executive Procedure Rules]

Part 4 E

Overview and Scrutiny Procedure Rules

Part 4E - Overview and Scrutiny Procedure Rules

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Part 4E - Overview and Scrutiny Procedure Rules

RULE 1

The number and arrangements for overview and scrutiny committees

The Council will have the overview and scrutiny committees and subcommittees set out in Article 6 and will appoint them as it considers appropriate from time to time. In the case of bodies dealing with County Council functions such committees may appoint subcommittees subject to the approval of the Scrutiny Commission. Such references in these rules to an overview and scrutiny committee shall be deemed to include references to subcommittees.

RULE 2

The Scrutiny Commission

The Scrutiny Commission will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions:

1. to have the powers of an overview and scrutiny committee in relation to Executive decisions made but not implemented as set out in section 21(3) of the Local Government Act 2000, similar to other overview and scrutiny committees;
2. to act as the statutory appeal body where a petitioner has requested a review of the adequacy of the steps taken or which are proposed to be taken in the Authority's response to a petition;
3. to agree job descriptions for the Scrutiny Commissioners and for the Chairmen, Deputy Chairmen and Spokesmen of the overview and scrutiny committees.

RULE 2A

The Scrutiny Commissioners

The Scrutiny Commissioners will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions, whilst recognising that scrutiny committees are encouraged to set their own relevant agendas:

1. to approve an annual overview and scrutiny work programme for the Scrutiny Commission, to ensure that there is efficient use of the committees' time, and that the potential for duplication of effort is minimised;

2. where matters fall within the remit of more than one overview and scrutiny committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between overview and scrutiny committees;
3. to receive requests from the Executive and/or the full County Council for reports from overview and scrutiny committees and to allocate them if appropriate to one or more overview and scrutiny committees;
4. to put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for reconsideration, are managed efficiently;
5. at the request of the Executive, to make decisions about the priority of referrals made if the volume of such referrals creates difficulty for management of Executive business or jeopardises the efficient running of County Council business;

RULE 3

Membership of overview and scrutiny committees

All County Councillors except members of the Executive and Cabinet Support Members may be members of an overview and scrutiny committee which deals with County Council functions. No member may be involved in scrutinising a decision with which he/she has been directly involved.

RULE 4

Co-opted members

Each overview and scrutiny committee shall be entitled to recommend to the County Council the appointment of a number of people as co-opted members as set out in the Table below. In the case of voting co-opted members this will be subject to the approval of the necessary scheme under Section 115 of the Local Government Act 2003.

[Note: the County Council has determined that it is unnecessary to co-opt people who are not County Councillors to be members of an overview and scrutiny committee, save to the extent required by law as described in Rule 5. However an overview and scrutiny committee may, if it wishes, invite individuals to attend to contribute to the discussion of a specific matter at a specific meeting. Such invitations should be regarded as exceptional and should not become a matter of routine.]

committee/sub-committee	permitted co-options
<i>[not in operation]</i>	

RULE 5***Education representatives***

- (a) Each relevant overview and scrutiny committee dealing with education matters shall include in its membership the following education representatives from schools maintained by the local education authority:
- (i) 1 Church of England diocese representative;
 - (ii) 1 Roman Catholic diocese representative; and
 - (iii) 2 parent governor representatives.
- (b) A relevant overview and scrutiny committee in this Rule is an overview and scrutiny committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. The rights of education representatives to participate in and vote on issues related to education functions will be subject to the provisions of any relevant statutory regulations. If the overview and scrutiny committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

[Note: for the purposes of this Rule the relevant overview and scrutiny committee is the Children and Families Overview and Scrutiny Committee]

RULE 6***Chairmanship and meetings of the overview and scrutiny committees***

- (a) The appointment of the Chairman of the standing overview and scrutiny committees will be made by the Council in determining the membership of the Scrutiny Commission in accordance with Article 6.06 of this Constitution. The appointment of chairmen of review panels will be a matter for the Scrutiny Commission to determine for those relating to County Council functions and for the Health Overview and Scrutiny Committee to determine for those relating to Health Service functions.
- (b) The meetings of the overview and scrutiny committees shall be conducted as set out for committees in the Meeting Procedure Rules (Standing Orders) in Part 4A of this Constitution.

[Note: the relevant Standing Orders are 33 to 36; Standing Order 34 applies Standing Orders 7, 14 to 19, 21 to 26 and 28 to 31, with any necessary modification.]

RULE 7***Work programme***

The overview and scrutiny committees dealing with County Council functions shall obtain the prior approval of the Scrutiny Commission for their work

programme and in formulating their work programme they shall take into account wishes of members on that committee who are not members of the current political administration of the County Council.

RULE 8

Policy review and development

- (a) The role of the overview and scrutiny committees in relation to the development of the County Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Part 4C.
- (b) In relation to the development of the County Council's approach to other matters not forming part of its Budget and Policy Framework, overview and scrutiny committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- (d) In respect of the examination of County Council functions the Scrutiny Commission shall have power to impose any limitation (general or specific and including a requirement to obtain the prior approval of the Scrutiny Commission) upon an overview and scrutiny committee's use of any of the actions specified in paragraph (c) above, in the interests of avoiding action which might lead to expenditure in excess of any budget provision; or which might duplicate other work already being undertaken or planned; or which might be disproportionate to the significance of the review involved, in terms of the Budget and Plan Framework.

RULE 9

Reports from overview and scrutiny committees dealing with County Council functions on proposals for development

- (a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will submit these for consideration either by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the County Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

- (b) If an overview and scrutiny committee cannot agree on one single response to the County Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the County Council or Executive alongside the committee's recommendations.
- (c) The basis of any minority report prepared under paragraph (b) above must have been discussed and been the subject of a proposal at the meeting of the committee and must have had the support of more than one member.
- (d) The County Council or Executive shall consider recommendations from the overview and scrutiny committee within two months of them being arrived at.

RULE 10

Reports from overview and scrutiny committees on items scrutinised

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the overview and scrutiny committee completing its report/recommendations.
- (b) Where an overview and scrutiny committee prepares a report for consideration by the Executive in relation to a matter where the Leader or County Council has delegated decision making power to another individual member of the Executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the Chief Executive and the Leader. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his or her decision making power and responding to the report in writing to the overview and scrutiny committee. The Executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within four weeks of receiving it. A copy of his or her written response to it shall be sent to the Chief Executive and he/she will attend a future meeting to respond.

[Note: The County Council decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting or by professional officers under the published schemes of delegation.]

- (c) Overview and scrutiny committees will in any event have access to the Executive's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will be able to respond in the course of the Executive's consultation process in relation to any Key Decision.

RULE 11

Rights of overview and scrutiny committee members to documents

- (a) In addition to their rights as County Councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4B of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and an overview and scrutiny committee as appropriate depending on the particular matter under consideration.

RULE 12

Members and officers giving account

- (a) An overview and scrutiny committee may require any member of the Executive, the Head of Paid Service and any senior officer of the Council and in the case of an overview and scrutiny committee dealing with Health Services any member or employee of a relevant NHS body or member or employee of a relevant health service provider, to attend before it to explain in relation to matters within their remit:
- (i) any particular policy, decision or series of decisions;
 - (ii) the extent to which the actions taken implement the policy of the County Council or relevant health body; and/or
 - (iii) their performance,

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chairman of that committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving (where practical) at least seven working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or

officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee may in consultation with the member or officer arrange an alternative date for attendance.

RULE 13 ***Attendance by others***

An overview and scrutiny committee may invite people other than those people referred to in Rule 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend. The people invited may decline to accept the invitation.

RULE 14 ***Call-in***

- (a) Call-in should only be used in exceptional circumstances. To ensure that call-in is not abused, nor causes unreasonable delay, it will only apply to Key Decisions and will also be subject to the conditions described in this Rule.
- (b) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at County Hall normally within 2 days of being made. Chairmen of all overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) That notification of the decisions will bear the date on which it is published and will specify that a Key Decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it has been called in under this Rule. Those decisions which are Key Decisions but which will require further consideration by the Executive at a later stage prior to implementation, may be proceeded with immediately (as in the case for example of a decision to proceed with consultation on a proposal). Those decisions which are not Key Decisions are not subject to call in under this Rule and may be implemented immediately.

- (d) During that period, the Chief Executive shall call-in a relevant Key Decision for scrutiny by a relevant overview and scrutiny committee only if so requested in writing by any four members of the Council, at least two of which must be members of the Scrutiny Commission. The written request shall include a cogent explanation of the reasons for the call-in.
- (e) The call-in notice can be withdrawn at any time in writing by the four members who originally invoked the call-in procedure.
- (f) The Chief Executive shall notify the decision-taker (where the decision was taken by the Executive, the Leader) of the call-in.
- (g) The Chief Executive shall call a meeting of the relevant overview and scrutiny committee on such date as he/she may determine, where possible after consultations with the chairman of the committee, and in any case the meeting shall be held within 10 working days of the decision to call-in.
- (h) If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full County Council. If referred to the decision maker, he/she/it shall then reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision.
- (i) If following a call-in, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter either back to the decision making person or body, or to the County Council, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the 10 day period referred to in (g) above, whichever is the earlier.
- (j) If the matter is referred to full County Council and the County Council does not object to the called-in decision, then no further action is necessary and the decision will be effective in accordance with the provisions below.
- (k) The Chief Executive will consult with the Leader to determine whether the nature of the called-in decision requires that an extraordinary meeting of the County Council be convened or whether the next ordinary meeting of the County Council will be appropriate.
- (l) The County Council has no power to make final decisions in respect of an Executive decision, unless that decision is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the County Council can only refer any decision to which it objects back to the decision making person or body, together with the County Council's views on the decision, leaving the final

decision to the decision maker. That decision making body or person will choose whether to amend the decision or not, before reaching a final decision and implementing it.

- (m) Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the County Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the County Council request.
- (n) If the County Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the County Council meeting or expiry of the period in which the County Council meeting should have been held, whichever is the earlier.
- (o) Where an Executive decision has been taken by an area committee then the right of call-in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to a relevant overview and scrutiny committee for consideration in accordance with these provisions. An area committee may only request the Chief Executive to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of a relevant overview and scrutiny committee.

[Note: the County Council decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting or by professional officers under the published schemes of delegation.]

The County Council has yet to decide to appoint any area committees. The provisions in this Rule will, therefore, not apply to area committees until such time as they are appointed and, even then, only when they are given any delegated powers]

RULE 15 ***Call-in and urgency***

- (a) The call-in procedure set out in Rule 14 shall not apply where a decision which would otherwise be subject to the call-in procedure is urgent. A decision will be urgent if any delay likely to be caused by the call-in procedure would seriously prejudice the County Council's or the public's interests.
- (b) The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.

- (c) The Chairman of the County Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-chairman's consent shall be required. In the absence of both, the Head of Paid Service or his or her nominee's consent shall be required. The Chief Executive will obtain the required consent.
- (d) Decisions taken as a matter of urgency must be reported to the next available meeting of the County Council, together with the reasons for urgency.
- (e) Since the call-in procedure can only apply to Key Decisions which should feature in the Executive's Forward Plan, the need for urgent action should be discussed beforehand by the Leader of the Council and the Chairman of the Scrutiny Commission.

RULE 16 ***The party whip***

- (a) In this Rule, "party whip" means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on the specific matter before the County Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.
- (b) When considering any matter in the following categories:
 - (i) any matter referred to the overview and scrutiny committee by the Executive; or
 - (ii) the review of any policy or decision; or
 - (iii) the performance of any member of the Executive,

in respect of which a member of an overview and scrutiny committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it, before the commencement of the committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

RULE 17 ***Procedure at overview and scrutiny committee meetings***

- (a) Overview and scrutiny committees shall consider the following business:

- (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
 - (iv) responses of the Executive or the relevant health body to reports of the overview and scrutiny committee;
 - (v) a referral made to the Committee by a member of the Council which is not an excluded matter; and
 - (vi) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee shall prepare a report, for submission to the County Council, the Executive and/or the relevant NHS body or relevant health service provider and shall make its report and findings public.

[end of Overview and Scrutiny Procedure Rules]

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Part 4 F

Financial Procedure Rules

Part 4F - Financial Procedure Rules

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Part 4F - Financial Procedure Rules

RULE 1

Application of Rules

- (a) These Rules set out the main financial management requirements of the County Council. They state what these are and who is responsible for preparing, authorising and acting on them. The Rules apply to the Executive and Committees and to officers of the County Council. They also apply to any person acting on behalf of the County Council. Amendments to the Rules will be made by the County Council on the recommendations of the Corporate Governance Committee.
- (b) The Executive shall make arrangements for the proper administration of the financial affairs delegated to it. The County Council or Corporate Governance Committee on its behalf, may make, amend or revoke the Standard Financial Instructions and the Executive will be responsible for ensuring that they are followed. The Standard Financial Instructions will be proposed by the Chief Finance Officer and will not form part of these Rules. The Standard Financial Instructions will cover the more detailed procedures required for the control of capital programme and revenue budgets, contracts, ordering, payments, imprest accounts, stocks and assets, income collection, banking, insurance and unofficial funds.
- (c) Where Special Rules are produced, on for example local management of schools, the financial arrangements should follow the requirements of those Special Rules and the Standard Financial Instructions.

RULE 2

Responsibility of the Chief Finance Officer

- (a) The Chief Finance Officer is responsible for the proper administration of the County Council's financial affairs under the requirements of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.
- (b) Having informed both the Executive and Corporate Governance Committee, the Chief Finance Officer will report to the full County Council if in his or her opinion any significant failure in the proper administration of the Council's affairs is occurring.
- (c) To fulfil his or her statutory duty the Chief Finance Officer may issue Accounting Instructions to complement these Rules and the Standard Financial Instructions.
- (d) The Chief Finance Officer will be responsible for the provision of corporate budgeting and accounting systems, including the establishment of reserves and provisions.

- (e) The Chief Finance Officer will provide guidance on the control of the delegation of budgets by chief officers.
- (f) In monitoring the application of these Rules and the Standard Financial Instructions, the Chief Finance Officer will identify (and propose) any amendments to them which would enable the County Council to take advantage of developments in electronic methods, provided that any such amendments would retain a degree of security which is similar to that provided by traditional paper-based systems.

RULE 3
Responsibility of chief officers

- (a) Chief officers of departments are responsible for the management of the resources made available to them by the County Council to achieve its objectives and to meet the Annual Plan. When doing this they must act in accordance with these Rules and Standard Financial Instructions. They should also follow any financial requirements laid down in the Contract Procedure Rules and the General Scheme of Delegation to Heads of Departments. Where responsibilities for management of resources are delegated, the chief officer should ensure that the authorised person is familiar with these Rules, the Contract Procedure Rules, the General Scheme of Delegation to Heads of Departments and the Standard Financial Instructions.
- (b) Chief officers should also make authorised persons aware of financial requirements contained in Acts and associated Parliamentary directives specific to the services for which they are responsible.
- (c) The chief officer when deciding to delegate authority to a representative should consider the duties of that representative in relation to the level of delegated authority. He or she may choose to place financial limits on the authorisation levels allowed.
- (d) Chief officers shall consult and take into account financial advice given by the Chief Finance Officer including guidance on delegation of budgets. They will also be responsible for providing financial information when requested by the Chief Finance Officer.
- (e) Chief officers should ensure that corporate guidance is followed with respect to the governance and financial aspects of partnerships.
- (f) Chief officers must ensure that a financial control framework is in place for the operation of key partnerships.

RULE 4***Application to subsidiary accounts***

These Rules and the Standard Financial Instructions will apply to all accounts maintained by the County Council including subsidiary accounts. The Executive may make special arrangements, however, to take account of the different needs of such accounts.

RULE 5***Changes to service provision***

Where the Executive considers there may be a need to change the policy on provision or delivery of services, it shall consider a written report by the appropriate chief officer. In this the chief officer will be required to set out the need for the change and the resources implications. He or she will also be required to state whether the change is likely to involve a Key Decision. The expected financial implications should include both part year and full year effects. In addition, if material changes are expected to occur in the longer term a financial assessment of these should be included. If necessary, the statutory authority to incur expenditure or raise income should also be included.

RULE 6***Changes in expenditure levels***

Any new or increased level of expenditure, whether capital or revenue, shall be properly authorised before any commitments are entered into. Funding arrangements must be agreed in accordance with these Rules or the Standard Financial Procedures.

RULE 7***Capital programmes***

- (a) Chief officers will prepare proposals for capital expenditure, in consultation with the relevant technical department, covering the categories and years and within any guidance and guidelines specified to them by the Executive. These proposals will be in a form prescribed by the Chief Finance Officer and will include both the capital costs and an estimate of the full additional annual revenue implications. The Executive will consider these. The Executive's proposals to the County Council will be subject to consultation with the Scrutiny Commission.
- (b) Inclusion of projects in a capital programme shall not override any requirement to obtain approval to new policies or changes in policies.

- (c) When the full County Council has given its approval, and in accordance with Finance Procedure Rule 22 regarding property matters, capital expenditure included in the first year of the programme may commence without further approval unless this is required by Government Departments or other outside bodies.
- (d) Commencement before the planned programme year can be approved by the Chief Finance Officer provided he/she is satisfied that resources are available within the overall four year programme.

RULE 8

Implementation and amendment of approved capital programme

- (a) When the capital programme has been approved, the designated chief officer will be responsible for controlling expenditure on each project agreed.
- (b) Amendments to the capital programme, including their revenue implications, will be subject to the arrangements outlined in the Standard Financial Instructions. This is unless they are deemed by the Chief Finance Officer to involve a Key Decision, in which case there may be a need for consultation with the Scrutiny Commission, approval by the Executive and possible further approval by the County Council.

RULE 9

Capital expenditure - accountability and performance

The Executive will make arrangements through the Chief Finance Officer to control and monitor total capital spending. The Executive and the Scrutiny Commission will receive financial statements. The Chief Finance Officer will also report the final position to the Executive and the Scrutiny Commission.

RULE 10

Financial planning

- (a) The Executive may require that all chief officers prepare estimates within any specified guidelines of future expenditure and income to cover a stipulated time period. The plans will be prepared in a form specified by the Chief Finance Officer. The plans will be considered by the Executive and they will include such additional information and explanations as may be required by the Executive. Where the Executive submits proposals to the full County Council, these will be subject to consultation with the Scrutiny Commission.
- (b) Where Government Departments and other bodies require submissions of estimates of expenditure and income in future years, these shall be in accordance with plans and policies approved by the full County Council or the Executive. They must also comply with any guidance given by the full County Council or the Executive. No new expenditure shall be

committed in advance of the approval of the annual budget unless this is agreed by the Executive.

RULE 11

Annual budgets and financial plans

- (a) The chief officer of a department will be responsible for preparing an annual revenue budget of expenditure and income. The budget will be prepared following such guidance and within such limits as specified by the Executive or County Council. The Chief Finance Officer will co-ordinate the production of budgets and ensure they are prepared in a consistent manner.
- (b) The process by which the budget is eventually approved by the County Council is set out in the Budget and Policy Framework Procedure Rules (Part 4C).

RULE 12

Implementation and amendment of approved budgets and plans

- (a) When the annual budget has been approved the appropriate chief officer or governors will be responsible for ensuring expected income is received and budgeted expenditure is not exceeded.
- (b) The Executive will be responsible for maintaining a control over the total of County Council's revenue expenditure and income.
- (c) Amendments to the approved annual Budget will be subject to the virement arrangements specified in the Standard Financial Instructions. This is unless they are deemed by the Chief Finance Officer to involve a Key Decision, in which case there may be a need for consultation with the Scrutiny Commission, approval by the Executive and possible further approval by the County Council.

RULE 13

Accountability and performance

- (a) Procedures for the collection of income and making of payments against budgeted expenditure will be laid down in the Standard Financial Instructions.
- (b) Chief officers will be responsible for ensuring that appropriate arrangements are made, on a regular basis, to monitor performance against budgets and financial forecasts. Any potential difficulties shall be reported in writing immediately to the Chief Finance Officer.
- (c) The Executive will receive regular budget monitoring reports from the Chief Finance Officer and will monitor overall performance.

- (d) The Chief Finance Officer will co-ordinate the production of final accounts and ensure they are produced in a consistent manner. The Chief Finance Officer will prepare a summary of the final accounts for approval by the Executive and consideration by the Scrutiny Commission. The Statements of Accounts will be approved by the Constitution Committee.

RULE 14 ***Reviews***

- (a) Chief officers are responsible for undertaking regular reviews of services under their control. In particular, consideration should be given to actual performance against approved targets for the service and the requirements of Best Value.
- (b) When undertaking reviews chief officers will need to take into account guidance provided by the Chief Executive in his or her capacity of review co-ordinator.
- (c) The Executive may require chief officers to report on the performance of any aspect of the services within their area of responsibility. In addition it may require them to provide explanations on performance indicators and other related information published by the Government or the National Audit Office.
- (d) The Scrutiny Commission or the other overview and scrutiny committees may require chief officers (and where specifically required Executive members) to report on the performance of any aspect of the services within their area of responsibility. This would include the results of comparative performance and value for money studies. The extent of the review will be bound by the terms of reference and the rules relating to the committee.

RULE 15 ***Internal audit***

- (a) Responsibility for arranging a continuous internal audit of the County Council's financial management arrangements will be delegated by members of the County Council to the Chief Finance Officer.
- (b) The Chief Finance Officer or an authorised representative has authority to:-
- (i) enter any Council building or land at all reasonable times;
 - (ii) have access to all records, documents and correspondence relating to any transactions of the Council;
 - (iii) receive such explanations as he or she considers necessary on any matter under examination; and

- (iv) require any employee of the Council to produce cash, stores or any other Council property under his or her control.
- (c) Chief officers (or where appropriate the Executive) will be responsible for considering and taking appropriate action on matters drawn to their attention by audit reports.

RULE 16

Internal control and check

The duties of staff concerned with financial transactions should, as far as is practicable, be distributed with regard to the principles of internal control and check. Chief officers and governors should consult the Chief Finance Officer (or his or her authorised representative) when this is not considered practicable or when changes to financial arrangements are being proposed so that the Chief Finance Officer or his or her authorised representative can ensure proper financial systems will still be in place.

RULE 17

Financial irregularities

The Chief Finance Officer and the Director of Law and Governance shall be notified immediately by chief officers and governors of any financial irregularities, or of any circumstances which may suggest the possibility of an irregularity, affecting any asset of the County Council.

RULE 18

Appointment of employees

Proposals made by chief officers and governors to appoint employees or alter grades need to take into account both current and future years funding and potential termination costs, where the proposals relate to a fixed time scale.

RULE 19

Redeployment or redundancy

- (a) The Chief Finance Officer will present an Organisational Change report to the Employment Committee on a quarterly basis which provides information on the number of redundancies.
- (b) When preparing an Action Plan, the chief officer will have due regard to the requirements of the County Council's Organisational Change Policy. Chief officers shall consult the Chief Finance Officer over the funding arrangements for the Action Plan proposals.

RULE 20
Personnel rules

Chief officers and governors must abide by any rules approved by the Executive or a chief officer under powers delegated to him or her, which are mandatory to the service.

RULE 21
Property records and deeds

- (a) A terrier of all land, buildings and interests owned by the County Council will be maintained by the Chief Finance Officer in a form approved by the Director of Law and Governance.
- (b) The Director of Law and Governance will be responsible for the custody of all title deeds.

RULE 22
Property acquisition, development, disposal and review

- (a) The Executive will be responsible for acquisition, disposal and allocation of land and buildings as requested by the Chief Finance Officer, following consultation with departments.
- (b) The Chief Finance Officer will be responsible for a continuing review both of the purpose for and the efficient utilisation of all land and buildings owned or used by the County Council. He or she will provide regular reports on these subjects to the Executive.
- (c) The Chief Finance Officer will regulate the administration of the purchase, lease, disposal, management and repair and maintenance of land and buildings.

RULE 23
Property management

- (a) Chief officers and governors will undertake the responsibilities of a tenant for the properties they use, unless specifically agreed otherwise with the Chief Finance Officer.
- (b) They shall take advice from the Chief Finance Officer on leasing, letting and changes in use of property. They should also take advice from him or her on maintenance and property management. It is important that special attention is given to compliance with Fire Certificates and Health and Safety Regulations.

- (c) The Chief Finance Officer will act as the landlord for County Council properties. In addition where buildings have joint use he or she may also undertake some of the responsibilities of the tenant.

RULE 24

Information and communication technology

- (a) **Corporate Strategy** Chief officers and governors will comply with the relevant sections of the Corporate Information and Technology Strategy. The I&T Service should be consulted on any proposed purchase of systems or any major changes to existing systems and/or IT equipment. I&T will provide specialist advice, including technical standards and specifications that apply and will ensure satisfactory links with other systems where appropriate.
- (b) **System Developments and Amendments** Where developments of or material amendments to systems take place that affect financial procedures, then chief officers and governors shall inform the Chief Finance Officer. The Chief Finance Officer or his or her authorised representative will stipulate the standards of control required.
- (c) **Control and Security** Chief officers and governors are responsible for the overall management and control of their own computer systems. Departmental Information Asset Owners are responsible for the security and privacy of data held by the system. Where central and other users' systems are accessed, they are responsible for ensuring agreed controls are complied with. Instructions on how to carry out these responsibilities are included in the Information and Data Governance Policy and the I&T Strategy.

RULE 25

Purchasing and income collection

Purchasing and collection officers must follow the requirements laid down in these Rules, the Contract Procedure Rules, the Standard Financial Instructions, the General Scheme of Delegation to Heads of Departments, and any specific delegated powers of Heads of Departments.

RULE 26

Inventories of assets

- (a) Chief officers and governors will be responsible for the safe keeping and condition of County Council assets under their control. They will also maintain an up to date inventory. The Chief Finance Officer will issue instructions on which assets should be included in these.

- (b) The Corporate Governance Committee will have power to make Standard Financial Instructions on the checking, usage and disposal of assets.

RULE 27
Stocks and stores

- (a) Chief officers and governors will be responsible for the custody and physical condition of the stocks and stores under their control. The levels of stocks shall not exceed reasonable requirements.
- (b) The Corporate Governance Committee will have power to make Standard Financial Instructions on the control, checking, valuation and disposal of stocks.

RULE 28
Pension fund investments

- (a) Purchase and sales of investments will be made by the Local Pension Committee's authorised representatives in accordance with the policies approved by the Local Pension Committee. The Committee may call upon both internal and external advisers to assist it in formulating and implementing these policies.
- (b) Securities relating to Pension Fund investments will be held by representatives of the Local Pension Committee. In circumstances where it is impractical or not legally possible for the investments to be held in the name of the County Council, the investments will be registered in the name of, and held by, a nominee company.
- (c) The Chief Finance Officer is authorised to sign contracts such as investment management agreements and custody agreements, in order that the investment and administration of Pension Fund monies can be carried out efficiently and in line with the policies approved by the Local Pension Committee.

RULE 29
Treasury management

- (a) The County Council in making decisions on borrowing and lending will have due regard to the requirements of the CIPFA Code of Practice on Treasury Management in Local Authorities.
- (b) A Treasury Policy Statement setting out strategy and procedures shall be adopted by the Executive.

- (c) The Chief Finance Officer when exercising powers delegated to him or her will have due regard to the requirements of the CIPFA Code of Practice and CIPFA's Guide for Chief Financial Officers.
- (d) The Chief Finance Officer will provide the Executive with an annual report on the Treasury Management operation, which will enable the Executive to monitor the implementation of the approved policy.
- (e) The Chief Finance Officer will be responsible for the borrowing and repayment of money on behalf of the County Council.
- (f) The Chief Finance Officer shall be consulted prior to entering into any leases.
- (g) Before the responsible officer enters into a leasing agreement a full understanding of the commitment that is being made on behalf of the Council is essential. The Chief Finance Officer and Director of Law and Governance should be consulted if further advice is required.
- (h) The leasing of an asset may relate to the award of a specific contract. Where this is the case the Chief Financial Officer shall be consulted prior to the award of the contract.
- (i) The Chief Finance Officer will be responsible for the investment of surplus funds.

RULE 30

Risks and liabilities

Chief officers and governors should have due regard to operational and financial risks and liabilities when considering alternative policies. They also need to consider potential physical risks to persons and assets. In doing so they need to follow the risk management strategy.

RULE 31

Insurance

The Chief Finance Officer will be responsible for arranging or amending insurance cover. This will be in accordance with policies laid down by the Executive.

[end of Financial Procedure Rules]

Standard Financial Instructions

Standard Financial Instructions

[Note: the following Standard Financial Instructions were formally approved by the County Council when adopting this Constitution for the first time. Future amendments to these Instructions will be made either by the full Council or Corporate Governance Committee under the authority given by Rule 1(b) of the Financial Procedure Rules. Although, unlike the Constitution itself, these Instructions do not require formal approval of the County Council, they are nevertheless included here for the sake of completeness and will be updated as necessary, to reflect any amendments made.]

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Standard Financial Instructions

(made under Rule 1(b) of the Financial Procedure Rules)

INSTRUCTION 1

Capital - expenditure in excess of approved amount

- (a) Where a specific approval given in the capital programme is likely to be exceeded the appropriate Chief Officer will consult with the Chief Finance Officer.
- (b) The Chief Finance Officer may approve increases in expenditure where compensating savings are being made or funding is available and there is no change in policy. In any particular instance, the Chief Finance Officer may decline to give approval and instead refer the proposal to the Executive. No additional expenditure should be committed prior to the appropriate approval.

INSTRUCTION 2

Changes to the Capital Programme

The Chief Finance Officer may approve requests to add or amend schemes within the capital programme, providing that they are totally funded, there is no overall increase in future revenue costs, there is no change in overall policy and subject to reporting any changes to the Executive and Scrutiny as part of the next MTFs monitoring report. In any particular instance, the Chief Finance Officer may decline to give approval and instead refer the proposal to the Executive.

INSTRUCTION 3

Grants and External Funding

Unless already included in the Medium Term Financial Strategy (MTFS) bids for external funding must be agreed with the Chief Finance Officer. He can approve bids where there is no additional one off or ongoing costs to the Authority for which there is no budget, capital programme or other provision.

Approval must be obtained from the Chief Finance Officer to any contingent liabilities for repayment should any conditions not be met, with any associated agreement being made with the approval of the Director of Law and Governance.

In other cases the approval of the Executive is required.

INSTRUCTION 4
Revenue – virement

- (a) In order to maintain effective and responsive services to meet the needs of the people of the County it is acknowledged that spending on individual budget heads may vary from the approved budget. This is permissible (subject to (b) and (c) below) so long as the total departmental budget is not exceeded.
- (b) Virement (either between individual lines or sections of the approved budget) is allowed except where it would involve:-
- i. a change in an existing policy;
 - ii. a reduction in service;
 - iii. on-going net costs which might not be containable;
 - iv. funding which has been included in that year's budget for service improvements above the limit of £20,000 or 5%, whichever is the greater.
 - v. the situation where the overall Council budget is forecast to be overspent.

The above will require the prior approval of the Executive, may constitute a Key Decision and may require the approval of the County Council. The Executive may consult the Chairman of the Scrutiny Commission if it considers that the nature of the proposal is such that the views of an overview and scrutiny committee should be canvassed.

- (c) Before submitting a virement proposal which falls under (b) above to the Executive for approval, the chief officer shall consult the Chief Finance Officer and shall include in his or her report to the Executive the justification for the change in priorities and any comments of the Chief Finance Officer. If the expenditure proposal is for longer than the current financial year, the chief officer must demonstrate that the proposed corresponding saving will also be continuing. This change will then be built into the ongoing budget.
- (d) Member approval is not required where a budget will continue to be used for the approved purpose but is being moved, for example, to reflect a change in budget holder responsibilities. Such transfers will however require the approval of the relevant Finance Business Partner(s).
- (e) Regular budget monitoring reports shall be made to the Executive and Scrutiny Commission identifying the main variations in expenditure in order that virement can be questioned as appropriate.

INSTRUCTION 5***Revenue - supplementary estimates***

- (a) A supplementary estimate approval means that not only do individual budget approvals increase, but the total approved departmental budget increases. Requests must be approved by the Executive and may constitute a key decision. The Chief Finance Officer must be consulted before a report written by the chief officer is submitted to the Executive.
- (b) Requests should result only from new legislation or other unforeseen and exceptional circumstances. Chief officers would be expected to show virement is not available to fund the proposal. Supplementary estimates may be approved but budget adjustments deferred whilst it becomes clearer whether costs can be met from elsewhere within the relevant budget.
- (c) No expenditure should be committed prior to Executive approval.

INSTRUCTION 6***Revenue – carry forward of over or underspendings***

- (a) The Executive may authorise adjustments in a department's current year's budgets for underspendings or overspendings incurred in the previous financial year.
- (b) The Chief Finance Officer may agree the carry forward of an underspending on all budgets subject to any guidelines laid down by the Executive. He or she may do this only when the total departmental budget is underspent by more than the requested carry forward.
- (c) Within an approved budget line special rules may apply to carrying forward over or underspendings. An example of these is local management of schools. The relevant Guidance Manuals will include the limits on types of carry forwards.

[Note on Guidelines: The Cabinet at its meeting on 27 June 2006 agreed that the Chief Finance Officer should be allowed to approve carry forwards where the money is to be spent for the purpose for which it was originally allocated in the budget. Where the carry forward is to be used for a different purpose (i.e. effectively comprising virement) the Chief Finance Officer should be allowed to approve items up to £100,000 with the following exceptions, where Cabinet approval is required:-

Where a carry forward would result in an overspending position on the department's budget

Where a carry forward would represent a change in existing policy

Where ongoing costs might result.

INSTRUCTION 7
Contracts

- (a) All contracts should be dealt with in accordance with the Contract Procedure Rules set out in Part 4G of the Council's Constitution.

Capital Contracts

- (b) The appropriate chief officer will be responsible for the maintenance of all financial as well as technical records for contracts of a capital nature.
- (c) Where building, construction or other capital contracts provide for payment to be made by instalments on the certificate issued by an authorised officer, the records must show the state of account on each contract between the County Council and the contractor together with other payments and related professional fees.
- (d) Payments to contractors in respect of all contracts must be authorised only by a certificate signed by the person made responsible by the contract for issuing such certificates (i.e. "the Certifying Officer" or authorised deputy). In the case of Private Architects, Quantity Surveyors, Engineers or Consultants, certificates must be countersigned as to validity by the appropriate chief officer who appointed them. The form of the certificate must be agreed by the Chief Finance Officer. The Certifying Officer will be responsible for the correct certification of all aspects of contract payments and for ensuring the correct completion of all associated contract documentation.
- (e) The Certifying Officer will ensure that all contract documentation is properly completed before the contractor's final account is paid.
- (f) Prior to issue of final certificates the Chief Finance Officer will, to the extent he or she considers necessary, audit accounts for contracts. He or she will be entitled to make all such enquiries and receive such information and explanations as he or she may require in order to satisfy himself or herself as to the accuracy of the accounts.
- (g) Chief officers should actively try to promote an agreement with contractors on outstanding issues, where work was completed over two years ago.
- (h) Claims from contractors in respect of matters not clearly within the terms of any existing contract must be referred to the Director of Law and Governance for consideration of the Council's legal liability before a settlement is reached. The Chief Finance Officer must also be informed of the amount of such claims before final settlement to enable him or her to consider the financial implications.

- (i) Where completion of a contract is delayed beyond the due date for completion by more than one-sixth of the contract period, it will be the duty of the responsible officer under the contract, after consultation with the Director of Law and Governance and spending department, to take appropriate action in respect of any claim for liquidated damages. The responsible officer may decide that liquidated damages should not be applied. This should be reported to the Executive subject to any guidelines set down by the Executive.

Professional Fees

- (j) Where staff are not charged to projects on a fee basis, the appropriate chief officers will supply the Chief Finance Officer with details of the cost of staff and private consultants employed on capital work.
- (k) In all cases an agreement with a private firm or individual shall require them to comply with the Contract Procedure Rules (Part 4G) and to give the same facilities to the Chief Finance Officer as required of chief officers of the Council by its instructions and procedures.
- (l) Where private consultants are to supervise work, the contracting chief officer is responsible for ensuring that he or she receives regular written reports covering the physical and financial progress of that work and for taking any appropriate action on the basis of progress reports.

INSTRUCTION 8

Orders for work, goods and services

- (a) Orders for work, goods and services must not be placed unless the expenditure to be incurred is in accordance with the Financial Procedure Rules and these Instructions.
- (b) Orders on official forms must be issued for all work, goods and services to be supplied to the County Council, except for supplies of public utility services such as gas, electricity and water, for periodical payments such as rent and rates, for petty cash purchases for Procurement Card and e-procurement transactions allowed under the scheme approved by the Chief Finance Officer, or for such other exceptions as the Chief Finance Officer may approve.
- (c) Where urgent orders are given orally they must be confirmed by a written official order not later than the next working day following the day in which the oral order is given. Confirmation orders should be clearly marked as confirmation only.
- (d) Some agreements or contracts for goods or services provide for payment by instalments. To show the state of the accounts of each such

agreement or contract, the appropriate chief officer will ensure such records are maintained in a manner agreed with the Chief Finance Officer.

- (e) Official order forms will be supplied by the Chief Finance Officer unless he or she has agreed in particular cases to the use of other forms for specific classes of transaction. Orders must be authorised only by officers designated by the appropriate chief officer who will maintain a list of officers authorised to sign on his or her behalf. Before placing an order the certifying officer must satisfy himself or herself that this would be proper expenditure and would be within the appropriate approved estimate. To provide segregation of duties at as early a stage as possible, it is recommended that a second officer should be responsible for making out the order.
- (f) The chief officer of each department will be responsible for ensuring the validity of all orders issued, the control and safe custody of all official order books issued to him or her, and obtaining alternative quotations or tenders as required before orders are placed. He or she will also be responsible for ensuring that the expenditure being incurred can be met from the approved estimates.
- (g) Departments must obtain goods, works or services in a manner and from sources which demonstrate best value for money. In the case of goods this will usually mean obtaining supplies through ESPO unless cheaper alternatives of comparable quality are available and ESPO are unable to match these terms.

INSTRUCTION 9

Payments of invoices and claims

- (a) Invoices should be on suppliers' printed forms except where alternative arrangements have been agreed by the Chief Finance Officer. The Chief Finance Officer is authorised to make all payments as they become due out of the General County Fund, its subsidiary accounts, and the Pension Fund. The system within spending departments should ensure that expenditure has been certified by an officer authorised by the chief officer.
- (b) Invoices should be on suppliers' official forms, printed or electronic. These and internal claims for payment shall be checked and certified in the appropriate departments and establishments in accordance with arrangements agreed with the Chief Finance Officer before payment is made.
- (c) The chief officers will ensure that a list of officers authorised to certify accounts is maintained. The verification and certification of accounts must be in accordance with instructions issued by the Chief Finance Officer.

- (d) Before certifying an invoice or claim the certifying officer must satisfy himself or herself that it is allocated to the correct expenditure head.
- (e) The Chief Finance Officer will examine, so far as he or she considers necessary, invoices and claims passed for payment and he or she will be entitled to receive such information and explanations as he or she may require. For this purpose all books and documents relating to the payment must be placed at his or her disposal.
- (f) For purchases made through iProcurement the duties of ordering and receiving goods and services, and certifying invoices and claims for payments, may by exception be performed by one and the same officer under the scheme approved by the Chief Finance Officer.
- (g) All claims for the payment of vehicle and subsistence allowances, travelling and incidental expenses must be certified and submitted to the Chief Finance Officer. These will be on a form approved by him or her, unless alternative arrangements have been agreed by him or her. Claims must be submitted promptly each month for the preceding month. Travel and subsistence claims which are for a period over 3 months old will not be paid unless there are extenuating circumstances.
- (h) Where the Chief Finance Officer considers it appropriate he or she will call the attention of the chief officer and, if necessary, the Executive to any item which has been passed for payment. He or she will also report to the Executive on any such item which he or she considers for any good reason should not be paid.
- (i) Schools operating under Local Management are subject to specific regulations. These are contained in the LMS Scheme of Delegation.

INSTRUCTION 10

Imprest accounts and Procurement Cards

- (a) The Chief Finance Officer may in consultation with the appropriate chief officer, provide imprest accounts where necessary for defraying petty cash and other minor expenses. Persons responsible must maintain a record of their receipts and payments in the form and manner prescribed by the Chief Finance Officer.
- (b) The Chief Finance Officer may in consultation with the appropriate Chief Officer, provide Procurement Cards (pCards) where the type of spend or the practicalities preclude the purchaser from using the Council's usual ordering and invoicing processes in an efficient way. Persons responsible must ensure the pCards are only used in accordance with the Council's scheme, have consideration of the Contract Procedure Rules where appropriate, be for the approved purposes of the department and maintain appropriate records.

- (c) The Chief Finance Officer may issue instructions as to the type and level of expenditure which should be met out of the imprest account or with pCards. Such expenditure must be supported by receipted vouchers to the extent that the Chief Finance Officer may require.
- (d) The holder of the pCard will be responsible for all transactions performed with their assigned card and must support the scheme administrators in the resolution of queried transactions. The card holder is additionally responsible for providing supplementary information required under the scheme to support VAT claims and updates to the Council's financial systems. Chief Officers are required to ensure monitoring is in place to verify that pCards within their department are used in accordance with the Council's scheme.
- (e) An official subsidiary bank account will be opened by the Chief Finance Officer in cases where he or she considers this to be necessary. Where such a bank account is opened in no circumstances will an overdraft be allowed.
- (f) Chief officers must arrange for the Chief Finance Officer or his or her authorised representative to be notified as early as possible whenever a person holding an imprest account ceases to be responsible for the account. The name of the new holder will be similarly notified when this is known. Equally the Chief Finance Officer must be notified when a pCard holder leaves the Council or transfers between cost centres to allow withdrawal or amendment of the pCard as appropriate.
- (g) No income received on behalf of the Council, other than the reimbursement received from the Chief Finance Officer, may be paid into an imprest account without prior consent of the Chief Finance Officer. Income must be banked separately or paid to the County Council as described elsewhere in these procedures.
- (h) pCards and imprest accounts are provided to allow officers to carry out their Council duties in a more efficient manner and are not provided for personal use. Specifically postal orders or personal or other cheques must not be cashed from monies held in an imprest account. Personal loans must not be made from such accounts, nor should loans be made to unofficial funds. Any accidental use must be reported to the Budget Holder and Chief Finance Officer as soon as it is discovered and LCC reimbursed.
- (i) Reimbursement of monies spent should be made by the Chief Finance Officer, except where he or she agrees to provide payments on account. In all cases imprest accounts will be made up to 31 March each year, subject to any exceptions agreed by the Chief Finance Officer. The Chief Finance Officer will determine the method of payment to settle the outstanding balances on pCards.

INSTRUCTION 11***Stocktaking and consequential action***

- (a) Stocks and stores records must be kept in such cases and in a form as may be agreed by the chief officer or his or her authorised representative with the Chief Finance Officer. There must be a complete independent stocktaking i.e. not carried out by the storekeeper or his or her staff, at least once in every financial year. The exception to this is where continuous stocktaking arrangements, agreed with the Chief Finance Officer, are operating. Test checks will also be made from time to time.
- (b) The value of stocks held at 31 March each year must be certified by the appropriate chief officer or his or her authorised representative and supplied to the Chief Finance Officer.
- (c) Surpluses or deficiencies revealed during any one stocktaking can be adjusted up to a net book value of £1,000 on the authority of the relevant chief officer or his or her authorised representative. Above this amount surpluses or deficiencies must be reported to the Chief Finance Officer who can approve write-offs or adjustments. The Chief Finance Officer will have the right to report any write-off or adjustment to the Executive if he or she considers this appropriate.
- (d) Surplus or obsolete items of stocks and stores up to a total book value of £1,000 at any one time may be disposed of by a chief officer or his or her authorised representative. Where the book value is over this figure but the resale value is considered to be below this, the chief officer should arrange for a suitably qualified second person to give a written confirmation of the valuation prior to disposal. Where the estimated resale value is above £1,000, the agreement of the Chief Finance Officer is necessary and, wherever appropriate, disposal will be by competitive quotation or tender. A record should be kept of all details relating to disposals.

INSTRUCTION 12***Inventories and consequential action***

- (a) Items costing over £250 should be included on an inventory. Additionally, lower value attractive and portable items should be included, subject to a minimum value of £50. All inventories will be kept in a form approved by the Chief Finance Officer. Where a computerised inventory is being proposed, its method of operation should conform to standards set down by the Chief Finance Officer.
- (b) Each chief officer will be responsible for ensuring that an annual check of all items on the inventory is carried out and for taking action after consultation with the Chief Finance Officer in relation to any surpluses or deficiencies and noting the inventory accordingly. Deficiencies due to

irregularity should be reported to Executive, if the Chief Finance Officer considers this appropriate.

- (c) The Chief Finance Officer or his or her representative may at all reasonable times have access to all property of the Council and may make such checks and tests as he or she deems reasonable.
- (d) The Council's property must not be removed from County Council premises except in the ordinary course of the Council's business, or used otherwise than for the Council's purposes except in accordance with specific directions issued by the chief officer or his or her authorised representative and agreed by the Chief Finance Officer. A record of such removals will be maintained at the establishment concerned.
- (e) Surplus or obsolete items of any one commodity up to a total book value at any one time of £1,000 may be disposed of by a chief officer or his or her authorised representative. Where the book value is over this figure but the resale value is considered to be below this, the chief officer should arrange for a suitably qualified second person to give a written confirmation of the valuation prior to disposal. Where the estimated resale value is above £1,000, the agreement of the Chief Finance Officer is necessary and whenever appropriate disposal will be by competitive quotation or tender. A record should be kept of all details relating to disposals.
- (f) Chief officers or their authorised representatives should follow standard corporate procedures for the redistribution, sale or disposal of surplus items of computer and ICT equipment. These procedures will be prepared by the Head of ICT, with the agreement of the Chief Finance Officer.

INSTRUCTION 13

Income records and grant claims

- (a) The collection of all monies due to the Council, including income from trading activities, should be under the control of the Chief Finance Officer. He or she will require that all monies due are promptly recorded, are collected in accordance with an approved collection strategy and all monies are promptly banked.
- (b) The records kept by each department relating to income will be in such form as may be approved by the Chief Finance Officer.
- (c) All official receipt forms, receipt books, tickets and other documents of a similar nature will be ordered, controlled by, and issued by the Chief Finance Officer unless he or she has agreed alternative arrangements. Every issue of any such document should be authorised by the chief officer of the department concerned or his or her nominated officer and acknowledged by the signature of the employee receiving the document.

- (d) No employee or agent shall give a receipt for money received on behalf of the Council on any form other than an official receipt form.
- (e) Chief officers of departments will designate and maintain a list of employees as accounting officers for the purpose of receiving monies due to the Council. These employees must maintain a record of their receipts and bankings in the form and manner prescribed by the Chief Finance Officer. The Chief Finance Officer will issue instructions regarding the frequency of deposit either with himself or herself or by payment into a bank account or Giro Bank.
- (f) Each officer paying money into a bank account of the County Council must show on the paying slip the amount of each cheque paid in and sufficient information to identify the individual transaction, e.g. receipt number, name of debtor.
- (g) Monies received by an accounting officer will be banked intact and must not be used to meet expenditure or to cash postal orders or personal or other cheques.
- (h) Chief officers should ensure that all grants and external funding income is promptly claimed and proper records and working papers are retained to justify claims.

INSTRUCTION 14

Write-offs

- (a) An amount due to the County Council must only be discharged by payment or by write-off in accordance with the following system.
- (b) Amounts up to £10,000 in any one case may be written-off by the Chief Finance Officer with the agreement of the chief officer of the department concerned. In special categories of write-offs, such as library issues, the Chief Finance Officer may authorise chief officers or nominated officers to write-off debts on his or her behalf.
- (c) Amounts over £10,000 in any one case may be written off by the Chief Finance Officer after consultation with the Leader or his nominee except that, in the case of debts of organisations in liquidation, receivership or bankruptcy where the Director of Law and Governance advises there is no reasonable prospect of recovering any monies or debts partially recovered by means of an out of court settlement where the Director of Law and Governance advises there is no reasonable prospect of recovering any further monies, these may be written off directly by the Chief Finance Officer.

- (d) The Chief Finance Officer will have the right to report any write-off to the Executive if he considers this appropriate.

INSTRUCTION 15
Review of charges

- (a) The Chief Officer of each department shall ensure that all charges for County Council services are reviewed at least annually at the time of the preparation of the budget. Rents should be reviewed at least triennially unless they are subject to any longer review period under the terms of the rental agreement.
- (b) Chief Officers will be free to decide on the pricing of discretionary services, i.e. traded services, though they must seek to cover all costs, including overheads, and where appropriate to make a profit, on all such activity. Where services are supplied within the County Council, any charges should not, as a matter of principle, seek to make a profit.
- (c) Charges for Statutory Services - where it is proposed to introduce, revise, or discontinue charges for statutory services, the Chief Finance Officer should be consulted before the proposal is progressed. Changes may be approved by the Chief Officer concerned following consultation with the Chief Finance Officer and appropriate Executive Lead Members.

INSTRUCTION 16
Banking arrangements

- (a) Arrangements with regard to the County Council's bank accounts, including Giro Bank accounts, will be made by the Chief Finance Officer.
- (b) Cheques, except those used by imprest accounts, will be ordered and controlled by the Chief Finance Officer who will make proper arrangements for the safe custody of blank cheques and the preparation, signing and despatch of cheques.
- (c) All County Council bank accounts, including imprest accounts, must include "Leicestershire County Council" in their titles and in no circumstances must an account be opened in the name of an individual or individual establishment. Special arrangements may be made by schools under specific legislation.
- (d) Cheques drawn will bear the pre-printed signature of the Chief Finance Officer, or be signed by the Chief Finance Officer, or by an employee duly authorised by the Chief Finance Officer.

- (e) Schools that operate the Extended Bank Account Scheme are subject to specific regulations. These are contained within that Scheme's manual for guidance.

INSTRUCTION 17

Salaries, wages and pensions

- (a) The payment of all salaries, wages, pensions, compensation and other emoluments will be made by the Chief Finance Officer or under arrangements approved and controlled by him or her.
- (b) Chief officers will arrange for the Chief Finance Officer to be notified as early as possible, and in the form prescribed by him or her, of all matters affecting the payment of items referred to paragraph (a) above and in particular:
- (i) appointments, resignations, dismissals, suspensions, secondments and transfers;
 - (ii) absences from duty for sickness or other reason, apart from approved leave;
 - (iii) changes in remuneration, other than normal increments and pay awards and agreements generally applied; and
 - (iv) information necessary to maintain records of service for superannuation, income tax and national insurance.
- (c) Tax, pension, national insurance and all other deductions from pay and related matters must be recorded and controlled in such a manner as determined by the Chief Finance Officer.
- (d) All time records or other documents relating to salaries and wages will be in a form prescribed or approved by the Chief Finance Officer and shall be checked and authorised in appropriate establishments or departments. They should be signed by or on behalf of the Chief Officer. The Chief Finance Officer will make information available regarding employees' pay details to establishments/departments to provide a means of verifying the accuracy of the pay records.
- (e) Advice should be sought from the Chief Finance Officer on proposed payments to non-staff members which may require the County Council to deduct tax.

INSTRUCTION 18

Insurance of risks

- (a) Chief Officers will ensure, following consultation with the Chief Finance Officer and Director of Law and Governance, that the Executive is advised

at key stages in the process of any litigation or disputes resolution where the County Council is at risk of paying significant damages or costs.

- (b) Chief officers will arrange that the Chief Finance Officer is notified immediately in writing of any fire, loss, liability or damage, or any event likely to lead to a claim.
- (c) Chief officers must obtain the prior approval of the Chief Finance Officer and the Director of Law and Governance to the terms of any indemnity which the County Council is requested to give.
- (d) A chief officer may, at his or her own discretion, arrange to provide insurance cover against risks not normally covered by the County Council as a whole. Such cover must be arranged via the Chief Finance Officer.

INSTRUCTION 19

Security of assets

- (a) Each Chief Officer is responsible for ensuring that arrangements are made for maintaining proper security at all times for buildings, stocks and stores, vehicles, furniture, equipment, cash, etc. under his or her control. He or she will consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- (b) Maximum limits for cash holdings will be agreed with the Chief Finance Officer and must not be exceeded without his or her express permission.
- (c) Safes must be kept locked and the key removed. The chief officer concerned must ensure that arrangements are made for the safe custody of keys to safes and similar receptacles. The loss of any such keys must be reported to the Chief Finance Officer immediately.

INSTRUCTION 20

Unofficial funds

- (a) Where an employee of the County Council, by reason of his or her employment with the County Council, has any responsibility for a fund other than an official fund, this is deemed to be an unofficial fund under this Rule. It should be the responsibility of each chief officer to be aware of the existence of all unofficial funds involving employees under his or her control, and to arrange for a regular review of the completeness and accuracy of records and arrangements.
- (b) The chief officer will agree with the Chief Finance Officer the type and extent of audit required for each particular fund, after taking into account the nature of activities covered, and the degree of risk. In no

circumstances must unofficial monies be mixed in with official receipts for the County Council. Where several unofficial funds are kept by the same officer, the funds should always be separate and readily identifiable.

INSTRUCTION 21

Private property

The Chief Finance Officer shall, in conjunction with the appropriate chief officer and the Director of Law and Governance, prescribe rules for the protection of private property of individuals who are in the care of the County Council.

INSTRUCTION 22

Schools and Fair Funding Regulations

- (a) The School Standards and Framework Act 1998, through the Leicestershire Scheme for Financing Schools allows governors of schools to determine their own arrangements for payroll, ordering and payments to suppliers, the collection of income and banking.
- (b) The Act also confirms the Chief Finance Officer's overall responsibility for ensuring that arrangements for the proper administration of the school's financial affairs are in place.
- (c) When undertaking this role, the Chief Finance Officer will wish to be assured that the Standard Financial Instructions outlined in the document are in place. He or she will also wish to be assured that the financial requirements on schools contained in the Scheme for Financing Schools are being carried out.

[end of Standard Financial Instructions]

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Part 4 G

Contract Procedure Rules

February 2024

Part 4 G - Contract Procedure Rules**GENERAL****RULE 1**
Compliance

- (a) Officers must comply with these Rules. Failure to do so may result in disciplinary action.
- (b) Where a procurement under these rules involves a key decision, as determined by the appropriate Chief Officer, then prior to the commencement of the procurement this must be taken to the Executive. Key decisions are defined in Rule 8 of the Executive Procedure Rules (Part 4D) of this Constitution. In the case of ESPO only if a decision does not fall within Appendix 4 to Schedule 1: Functions of, and Delegations to the Director of ESPO, the decision can be escalated to the Director of ESPO, the decision can be escalated to the Chief Officers Group or Management Committee.
- (c) Sale of council assets are not part of these rules. They are covered by Rule 25 Purchasing and income collections and Rule 26 Inventories and assets of the Financial Procedure Rules (Part 4F) of the Constitution.

RULE 2
Delegation

Appropriate Chief Officers and the Director of Law and Governance may delegate their responsibilities under these Rules in accordance with Rule 6 of Section D (General scheme of delegation to heads of departments) of Part 3 (Responsibility for Functions) of the Constitution.

RULE 3
Interpretation

Words and expressions used in these Rules are to be interpreted in accordance with the provisions of Schedule 1.

RULE 4
Application

These Rules apply to every procurement contract made by or on behalf of the Council except contracts:

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- (a) for only the acquisition or disposal of any interest in land;
- (b) for the lending or borrowing of money;
- (c) of employment (making an individual a direct employee of the Council).
- (d) for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of the Financial Services and Market Act 2000 (Markets in Financial Instruments) Regulation 2017 – UK Statutory Instruments 2017 No. 701.

PROCUREMENT PRINCIPLES**RULE 5*****General Requirements***

- (a) Every Contract or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council's policies and must be made in accordance with the Council's duty of Best Value and in line with the Council's Strategic Plan 2022-26.
- (b) (i) Social Value will be considered in any contract with an estimated value equal to or greater than £50,000 in one of the of the following two ways:
 - As award criteria linked to the Council's Social Value Policy Statement and the Council's Strategic Plan 2022 – 2026;
 - As Outcomes built into the Specification or contract.
- (ii) Social Value will be addressed at contract management for any contract with a value equal to or greater than £50,000.
- (iii) Where Social Value has not been considered within either the tender process or specification, the reason shall be recorded and forwarded for approval to the relevant Commercial Specialist.
- (c) Where the services are Light-Touch Services the threshold for contracts for public supply or services contracts applies for the purposes of the Social Value Act, being the sum specified in regulation 5 (1) (d) of the Public Contracts Regulations 2015.
- (d) Where the services are required to be procured under The Health Care Services (Provider Selection Regime) Regulations 2023, Social Value will need to be considered regardless of the estimated contract value.

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- (e) Use of Corporate Contracts: The Procuring Officer must ensure that whenever Corporate Contracts have been approved by a Commercial Specialist that supplies, services and works are ordered via these. Intention to award via these contracts where the value exceeds £25,000 the Procuring Officer should include consultation with the relevant Commercial Specialist, before completing the award. The Procuring Officer must consider what risks the contract presents ahead of any procurement exercise, considerations must include those relating to Health and Safety, Business Continuity, Compliance with the Modern Slavery Act 2015 and Information Security. The Procuring Officer may not procure outside of the Corporate Contract unless it is agreed by the Commercial Specialist that better value for money can be clearly demonstrated outside of these approved Corporate Contracts. All such instances involving ESPO must be notified to ESPO by the Commercial Specialist.
- (f) Procedures set out in the relevant EU Retained law, Acts of Parliament and UK legislation (including for the avoidance of doubt the Public Contracts Regulations 2015 the Concession Contracts Regulations 2016, the Health Care Services (Provider Selection Regime) Regulations 2023 and where applicable the Public Contracts Regulations 2006) must be complied with at all times.
- (g) Based on criteria laid down by the Executive, the Chief Finance Officer will be responsible for evaluating the financial status of Tenderers and suppliers.
- (h) The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.
- (i) Procurement Exercises should usually be undertaken by electronic means provided that:-
 - (j) the requirements of these Rules are followed with only such modifications as may be necessary to allow for procurement by such means; and
 - (ii) any electronic tendering system has been approved by the Director of Law and Governance following consultation with the Director of Corporate Resources.
- (i) Subject to the provisions of Rule 28(b) Contracts shall not be longer than 5 years (including extensions) in duration or of indeterminate length without the prior written approval of the Director of Corporate Resources, such approval to be obtained prior to the commencement of the Procurement Exercise.

RULE 6
Exceptions

What is the Exception?	What approval is required?
<p>6a) Direct purchase for supplies, materials, services or works which are available only as proprietary and/or patented articles, services or works from one contractor or supplier where there is no reasonably satisfactory alternative available in the UK and for repairs (to maintain warranties) to, or the supply of, parts of existing proprietary or patented articles or works, including machinery or plant.</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the contract value/ exception is equal to or exceeds £100,000 the exception must be approved by the Assistant Director for Finance. • Where the contract value/ exception is equal to or exceeds £179,087 a copy of the exception form and reasons must be authorised by the Director of Corporate Resources and the Director of Law and Governance. <p>Where the contract value/ exception is below £25,000 Rule 11 can apply.</p> <p>The approved form must be retained in the appropriate file.</p>
<p>6b) Direct purchase without advertising of works of art, museum specimens or historical documents.</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £179,087 a copy of the exception form/note and reasons must be authorised by the Director of Corporate Resources and the Director of Law and Governance.

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	The approved form must be retained in the appropriate file.
<p>6c) Direct purchase for the following social care services provided that the Estimated Value of such services does not exceed the UK threshold for Light-Touch service contracts:</p> <p>i.) residential placements sought for an individual with a registered care provider of their choice;</p> <p>ii.) 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 and Care Act 2014;</p> <p>iii.) social care packages managed by or on behalf of individual clients under the personalisation agenda;</p> <p>iv.) where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the appropriate Chief Officer.</p> <p>v.) residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).</p>	<p>Exception note must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Supplier Relationship Manager should be consulted to ensure value for money is attained. <p>The approved note must be retained in the appropriate file.</p> <p>In each case the appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards legislative or otherwise, (for example those standards set by the Care Act 2014, OFSTED and HMI) and Contract Procedure Rules that a record of the reasons for the choice of provider is maintained on the individual's case notes as well as submitting to the relevant Commercial Specialist justification and evidence for exception placements.</p> <p>A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.</p>
<p>6d) Direct purchase for those unforeseen emergencies, where immediate action is required to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £179,087 a copy of the exception form and reasons must be authorised by the Director of Corporate

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	<p>Resources and the Director of Law and Governance.</p> <p>The approved form must be retained in the appropriate file.</p>
6e) Other exceptions to these Rules	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £100,000 the exception must be authorised by the Assistant Director for Finance and also; • Where the contract is equal to or exceeds £179,087 a copy of the exception form and reasons must be also authorised by the Director of Corporate Resources and the Director of Law and Governance along with the Executive and Leader or Deputy Leader where the Leader is not practical. The requesting department is responsible for ensuring Cabinet approval is sought; • In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive. <p>The approved form must be retained in the appropriate file.</p>

RULE 7***Financial Thresholds and Delegation***

- (a) Financial limits and thresholds within these Rules may be varied from time to time by the Corporate Governance Committee.
- (b) Arrangements for delegation of functions to Officers within these Rules may be varied from time to time by the Chief Executive.

RULE 8***Annual Reporting***

- (a) The Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules (except those granted under Rule 6(iv)) and approved extensions to contract where not provided for in the contract, and proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU Retained procurement law as may be necessary from time to time.
- (b) An annual summary of the number of contracts awarded using the Provider Selection Regime, in the year to which the summary relates where Direct Award Process A, Direct Award Process B, Direct Award Process C, the Most Suitable Provider Process or the Competitive Process was followed.

RULE 9***Prevention of Corruption / Conflict of Interest***

- (a) The Employee Code of Conduct (Part 5b of the Constitution) applies to any Procurement Exercise.
- (b) The following clause, or a clause that is substantially similar, will be included as a standard term and condition in every written contract in accordance with Rule 25(c):
"The Council may terminate this contract and recover all its loss from the Contractor if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:
 - (i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done); or
 - (ii) commit an offence under the Bribery Act 2010 or give any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972; or

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- (iii) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the Contractor's liability shall not apply to this clause".

- (c) The Council's Supplier Code of Conduct applies to any Procurement Exercise.

RULE 9A
Counter Terrorism and Security Act 2015

Where appropriate, the Contract shall make appropriate provision for information sharing between the Contractor and the Council in line with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism.

PROCUREMENT EXERCISE

RULE 10
Pre-Estimate

- (a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this Rule. The estimated value for the Procurement must not be subdivided for the purpose of reducing the total value of the contract for multiple procurements.
- (b) The Estimated Value shall be calculated as follows:
 - (i) Where the contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the contract;
 - (ii) Where the contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;
 - (iii) For feasibility studies the Estimated Value shall include the value of the study and any subsequent contracts which may be awarded to the same supplier as a result where this is known;
 - (iv) For Concession Contracts the Estimated Value shall be the estimated financial value to the supplier that shall be made over the duration of the Contract, net of value added tax;

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- (v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;
 - (vi) Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12 month period;
 - (vii) Where the Council may be contributing only part of the Total Value of a contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules.
- (c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 11 must be used.
- (d) Where the Estimated Value is:
- (i) £5,000 or more the Procuring Officer must notify in writing the appropriate Commercial Specialist of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.
 - (ii) £25,000 or more the spend controls guidance must be followed and a Procurement Initiation Document used (this is not applicable to ESPO).

RULE 11***Procurement Exercise Process***

- (a) Based on the Estimated Value, as identified in Rule 10, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise.
- (b) In the case of a contract for individual independent day or residential school placement sought for a child with Special Educational Needs (SEN) with an Estimated Contract Value up to the UK Threshold for Light Touch Services three quotes must be sought.
- (c) In the case of a contract or framework agreement for healthcare services (as defined by Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023), the Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations. If Direct Award Process A, B, C or The Most Suitable Provider Process are considered the most appropriate route to market, approval must be sought from the Head of Procurement & Supply Chain Management.

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- (d) All contracts with an Estimated Value equal to or greater than the UK Threshold must be referred to the Commissioning Support Unit prior to the commencement of the Procurement Exercise. The Commissioning Support Unit shall advise the Procuring Officer on the appropriate route to market which may include the use of ESPO and ESPO framework agreements, Crown Commercial Services framework agreements, etc.
- (d) Details of oral Quotations must be confirmed in writing.
- (e) Where any Corporate Contracts or Standing Lists have been set up for supplies, services or works then these Rules are deemed to have been satisfied when the arrangement was set up and do not have to be further applied, if appropriately used. When the Corporate Contract is a Framework Agreement then the Procuring Officer must comply with Rule 28(c) after consultation with a relevant Commercial Specialist on the suitability of the framework intended to be used. When using a Standing List the Procuring Officer must comply with Rule 27.
- (f) All procurements over £25,000 must be approved before any procurement activity, by the Commissioning Support Unit via the spend controls guidance and use of the Procurement Initiation Document (this is not applicable to ESPO).

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 6):

Estimated Contract Value		Procurement Process	Minimum Contract Opportunity Publication	Documentation
From	Up To			
£0	£5,000	Obtain a minimum of one oral/written Quotation	None	Record details
Above £5,000	£25,000	Seek to obtain a minimum of 3 written Quotations	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.*	Record details. (If three Quotations cannot be obtained a record of the reasons for this must be agreed in consultation with the appropriate Commercial Specialist.) When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the Contract.

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Estimated Contract Value		Procurement Process	Minimum Contract Opportunity Publication	Documentation
From	Up To			
Above £25,000	Up to but not including £179,087	Seek written Quotations (to be based on a Request for Quotation document where practical) For exceptions see Rule 6(b)	Contracts Finder and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Request for Quotation issued by the Procuring Officer and Quotations received.
Relevant UK Threshold Goods/services: £179,087 before VAT Works, Concessions and Utilities: £4,477,175 before VAT Light touch regime: £552,950	Above	Formal Tender Process (Refer to Commissioning Support)	The UK e-notification service where required, Contracts Finder and on a Website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Formal Tender and sealed bids (should be submitted via an electronic tendering system, see Rule 18(d)).

* These are total contract spend estimates equaling total contract value over the term of the contract.

* All values are not inclusive of VAT, the Threshold figures inclusive of VAT can be used on a project by project basis if it is deemed beneficial.

* The Council cannot give preference to local suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However, the Council recognises that there can be barriers limiting or restricting the ability of smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council.

RULE 12

Suitability Assessment and Award Evaluation Criteria

- (a) The Council shall not include a pre-qualification questionnaire stage where the value of the procurement is below the UK Threshold set out in Reg. 5 (1) (c) of the Public Contracts Regulations 2015. Below the UK Threshold only Suitability Assessment Questions may be asked. A standard form of Suitability Assessment Questions must be used.
- (b) In a Procurement Exercise with an estimated Value equal to or greater than the UK Threshold both selection and award criteria must be included. A

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Standard Selection Questionnaire or the Single Procurement Document must be used for the selection criteria;

- (c) Selection criteria must be included in the evaluation process where applying the Open Tendering procedure (Rule 15) or must be the only criteria used for the shortlisting methodology where applying the Restricted Tendering procedure (Rule 16).

RULE 13***Award and Evaluation Criteria***

- (a) The award criteria shall be based on the most economically advantageous Tender from the Council's point of view. That Tender shall be identified on the basis of price or cost, using a cost- effectiveness approach, such as Life-Cycle Costing and may include the best price-quality ratio which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects or any other criteria linked to the subject-matter of the Contract in question.
- (b) When procuring Healthcare services, the five Key Criteria as stated in the Health Care Services (Provider Selection Regime) Regulations 2023 must all be evaluated. These are:
- Quality and innovation
 - Value
 - Integration, collaboration, and service sustainability
 - Improving access, reducing health inequalities, and facilitating choice
 - Social value
- (c) Before a contract can be awarded following an Open Tender procedure the supplier must meet the minimum standard for the selection criteria included in the evaluation process.
- (d) In the case of a Procurement Exercise with an Estimated Value of £25,000 or more the process for identifying the most economically advantageous Tender, including selection and award criteria, must be agreed in consultation with the appropriate Commercial Specialist and included in the RFQ/Invitation to Tender and a copy retained on file.
- (e) The Procuring Officer must notify all Tenderers of the award methodology and evaluation criteria being used in the case of the contract in question. If weightings are to be applied to the criteria then the Procuring Officer must ensure that these are also incorporated into the Invitation to Tender.

RULE 14
Contract Opportunity Publication

- (a) Unless otherwise agreed by the appropriate Chief Officer, the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of £25,000 or more but less than the relevant UK Threshold, that Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.
- (b) All Procurement Exercises with an Estimated Value of £25,000 or more must be advertised on Contracts Finder within 24 hours of the time when the Procurement Exercise is advertised in any other way. Procurement exercises over the relevant UK Threshold must be advertised on the UK e-notification service known as Find a Tender Service (FTS) and on Contracts Finder.
- (c) For all proposed contracts which are advertised where the Estimated Value is below the UK Threshold, a period of at least ten working days should be allowed between the date when an Invitation to Tender becomes available to all bidders and either:
 - (i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or
 - (ii) the deadline for receipt of the standard form of Suitability Assessment Questions or the Single Procurement Document, where a Restricted Tendering procedure is being used.
- (d) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained, how and to whom an interested supplier is to respond and any other requirements such as suitability requirements or explanatory information.
- (e) If the Estimated Value exceeds the relevant UK Threshold the Procuring Officer must ensure that Contract Opportunity Publication is first published on the UK e-notification service known as Find a Tender Service (FTS) and then on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market and in Contracts Finder.
- (f) A Procurement Exercise that is equal to or more than the UK Threshold for Light-Touch Services must be procured in compliance with Chapter 3, section 7 of the Public Contracts Regulations 2015.

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- (g) Where a contract opportunity is equal to or greater than the UK Threshold a Contract Opportunity Publication should not appear in any form before publication on the UK e-notification service and neither should any advertisement contain any more information than that published on the UK e-notification service known as Find a Tender Service (FTS).

- (h) The advertising requirements set out in this Rule 14 are minimum requirements and do not preclude further Contract Opportunity Publication where appropriate (e.g. in the local newspaper, trade or professional journal, the Council website).

PROCUREMENT PROCESS**RULE 15**
Open Tendering

Under Open Tendering, Procuring Officers must send Invitations to Tender to all those Persons who respond to the Contract Opportunity Publication and who meet the requirements stated therein. Where the opportunity has been advertised via the electronic tendering system the Invitation to Tenders and all supporting documents must be made available in the system for all interested parties to access subject to confidentiality agreement where applicable.

RULE 16
Restricted Tendering

- (a) Subject to Rule 16 (b), this Rule applies to Tenders where the Estimated Value is equal to or exceeds the UK Threshold.
- (b) Where the services being tendered are Light-Touch Services the Procuring Officer may choose to use this Restricted Tendering procedure but is not required to.
- (c) Under Restricted Tendering, Procuring Officers need only send Invitations to Tender to:
 - (i) not less than five of the Persons who respond to the Contract Opportunity Publication and who best meet the shortlisting methodology agreed in Rule 12(c); or
 - (ii) where fewer than five Persons have applied or are considered suitable, to all those Persons who equal or exceed the minimum requirements for the shortlisting methodology agreed in Rule 12(c).
- (d) The shortlisting criteria and process must be prepared (in consultation with the Commercial Specialist) in advance of the issue of the Standard Selection Questionnaire or the Single Procurement Document and a copy retained on file.
- (e) All Persons that do not qualify for inclusion on the shortlist to receive an Invitation to Tender must receive notice that they have been excluded from the Procurement Exercise. Any Person requesting in

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writing the reasons why they were unsuccessful shall be informed by the Procuring Officer of the reasons for the Council's decision.

RULE 17***Negotiated Procedure, Competitive Procedure with Negotiation, Competitive Dialogue Procedure and Innovation Partnership Procedure***

The Negotiated Procedure, Competitive Procedure with Negotiation, Competitive Dialogue Procedure or Innovation Partnership Procedure must only be used with the prior approval of the Director of Law and Governance and the Director of Corporate Resources. Competitive Procedure with Negotiation or Competitive Dialogue can only be used when criteria under PCR Reg.26(4) are met. Competitive Procedure with Negotiation or Competitive Dialogue can only be used when criteria under PCR Reg. 26(4) are met.

RULE 17A***Concession Contracts***

Procuring Officers must only establish Concession Contracts with prior consultation of the Director of Law and Governance and with the prior approval of the Director of Corporate Resources also in the case of Concession Contracts above the UK Threshold.

RULE 18***Invitations to Tender***

- (a) Every Invitation to Tender must specify the latest day and hour and the place appointed for the receipt of Tenders and must state the effect of Rule 19.
- (b) Procuring Officers must give all Tenderers the same information about the Procurement Exercise and in particular information relating to the Tender process, specification, award methodology and evaluation criteria and the terms and conditions of the Contract or Framework agreement.
- (c) Procuring Officers must also give all Tenderers the same information relating to questions, answers and clarifications raised during the Procurement Exercise unless they relate solely to another Person's Tender.

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- (d) All Procurement Exercises equal to or greater than £25,000 shall be handled via an Electronic Tendering System where possible. Only in exceptional cases may a Procurement Exercise be undertaken not using an Electronic Tendering System. Paper Tenders must be submitted to, addressed to and opened by the Chief Executive. Where the Estimated value is below £25,000 the Tenders may be returned directly to the Procuring Officer.
- (e) Where an Electronic Tendering System is not available and paper Tenders are to be received by the Chief Executive, the Procuring Officer must send to the Chief Executive a note of the subject and the closing date and time and (where appropriate) a list of the Persons invited to Tender together with the Estimated Value before the closing date for receipt of Tenders.

RULE 19
Irregular Tenders

- (a) An Irregular Tender must not be accepted by either the Chief Executive or the Procuring Officer, other than in accordance with this Rule.
- (b) A Tender is not valid unless it has been either submitted via an Electronic Tendering System or in the case of paper tenders delivered to the place appointed in accordance with Rule 18 and not later than the appointed day and hour.
- (c) Tenders other than E-Tenders where the Estimated Value is equal to or greater than £179,087 are not valid unless they are received in a plain sealed envelope or parcel addressed to the Chief Executive. The envelope or package must bear the word "Tender" followed by the subject to which it relates.
- (d) E-Tenders must be submitted in accordance with the requirements of the Electronic Tendering System used.
- (e) Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Tender and/or because it is received after the appointed time for receipt or does not comply with Rules 19(b) or 19(c), the provisions of Rules 19(f) and 19(g) apply.
- (f) A Tender other than an E-Tender which is received after the closing date and time may be opened and evaluated in accordance with Rule 20 if there is clear evidence of it having:-

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- (i) been posted by first class post at least a day before the closing date; OR
 - (ii) been posted by second class post at least three days before the closing date; OR
 - (iii) been placed in the custody of a courier who has provided written assurance of delivery prior to the closing date and time.
- (g) If in other cases of Irregular Tenders the Chief Executive considers that there are exceptional circumstances and that the Tenderer who submitted the Irregular Tender has gained no advantage from its irregularity he may determine to accept the Irregular Tender and authorise that it be opened and evaluated together with any other Tenders in accordance with Rule 20. The Chief Executive shall record in writing the reasons why each Irregular Tender has been accepted or rejected.
- (h) Irregular Tenders that the Chief Executive has rejected under this Rule must be returned to the Tenderer by the Chief Executive with a covering letter stating the reason for their rejection.

RULE 20***Receipt and Opening of Tenders***

- (a) Rules 20(b) to (f) apply only to Tenders where the Estimated Value is equal to or greater than £179,087 before VAT and the Tender is not an E-Tender. Rule 20(g) applies to E-Tenders only.
- (b) On receipt of non-electronic Tenders, envelopes containing the Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened.
- (c) The Chief Executive must keep a record of all non-electronic Tenders received.
- (d) Tenders must be opened at one time in the presence of not less than two Officers one of whom is not involved in the Procurement Exercise and who is designated by the Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped.
- (e) Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders.

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- (f) The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.
- (g) E-Tenders must be opened in accordance with the requirements of the Electronic Tendering System used.

RULE 21***Errors or Discrepancies in Tenders***

- (a) Tenderers are not allowed to alter their Tenders after opening save in accordance with this Rule or Rule 22.
- (b) Where it is suspected that there has been an error in a Tender and following the closing date for receipt of Tenders but before acceptance of any Tender discussions may take place with Tenderers in order to:
 - (i) ensure that the Tender is constructed correctly; or
 - (ii) ensure that the Tenderer has fully understood the specification; or
 - (iii) seek clarification from Tenderers of cost, quality and performance indicators.
- (c) A written note of the discussions must be made to record the suspected error, date, time, detail of the discussion and any agreement reached.

RULE 22***Discussions and Post Tender Negotiations***

- (a) In the case where the Estimated Value is below the relevant UK Threshold, the Procuring Officer in consultation with the appropriate Commercial Specialist may carry out Post Tender Negotiations with the Tenderer submitting the most competitive Tender in an attempt to secure improvements in the price or economic advantage in one or more of the following circumstances:
 - (i) where the most competitive Tender (according to the pre-determined award methodology and evaluation criteria) submitted exceeds the Estimated Value;

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- (ii) where it is considered that the price of the most competitive Tender submitted does not represent the best value for money that can reasonably be obtained;
 - (iii) where Tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items;
 - (iv) where the most competitive Tender contains conditions, trading terms, guarantees, or provisions relating to performance or service delivery less favourable than in other Tenders, or than stipulated for and this defect appears capable of being remedied by Post Tender Negotiations.
- (b) When conducting Post Tender Negotiations, the following additional Rules shall apply:
- (i) At no time during the negotiations must a Tenderer be informed of the detail of any other Tender submitted or as to whether or not the Tender he submitted was the lowest.
 - (ii) During negotiations in person there must always be present at least two officers of the Council.
 - (iii) A note of the negotiations will be made by one of the Officers present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.
 - (iv) Post Tender Negotiations shall not enable any material departure from the published specification. The Director of Law and Governance shall determine whether any proposed change to the specification constitutes a material departure.
- (c) Post Tender Negotiations are not allowed in the case of contracts with an Estimated Value exceeding the relevant UK Threshold. However, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule 21.

AWARD OF CONTRACT**RULE 23*****Acceptance of Tenders***

- (a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 13. Any evaluation sheets must be maintained on file in accordance with Rule 34.
- (b) Any Tender with an Estimated Value of below £25,000 (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the appropriate Commercial Specialist.
- (c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Rule 5(g) the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, appropriate Chief Officer or Executive prior to accepting the Tender.
- (d) Where an abnormally low Tender is submitted the Council shall require the Tenderer to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Council must reject the Tender.
- (e) Subject to Rule 1, the appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Executive to determine.

RULE 24***Notification of Contract Award***

- (a) The Procuring Officer must notify the successful Tenderer of the acceptance of their Tender and for all Procurement Exercises with an Estimated Value of £5,000 or more this notification must be in writing.
- (b) In the case where the Estimated Value is £25,000 or more the Procuring Officer must notify in writing all Tenderers who submitted a Tender of the decision as soon as possible after the decision has been made.

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- (c) Where a Contract with an Estimated Value of £25,000 or more is awarded the Council must publish information as required by the Public Contracts Regulations 2015 on Contracts Finder within 90 calendar days of the date the Contract was awarded.
- (d) In the case where the Estimated Value is equal to or greater than the relevant UK Threshold the following additional Rules shall apply:
- (i) The notice in Rule 24 (b) shall include the award criteria, the reasons for the decision, including the successful Tenderer's score, the score (if any) of the Tenderer receiving the notice, and the characteristics and (if appropriate) relative advantages of the successful Tenderer's Tender, any reasons why the recipient of the notice did not meet the technical specification, the name of the Tenderer awarded the Contract, as well as the date when the standstill period required in accordance with Rule 24 (d)(ii) will come to an end.
 - (ii) A minimum period of 10 calendar days must elapse between the day of sending the notice in Rule 24 (b) and the date on which the Council enters into a contract, if the notice is sent electronically. Where the notice is sent by other means then either 15 days from the day of sending the notice or 10 days from the day of receipt of the notice by the last Tenderer to receive the notice must elapse. In all cases counting the day after sending the notice as day 1. The standstill period must end on a working day.
 - (iii) The Procuring Officer shall ensure that a UK e-notification service contract award notice known as Find a Tender Service (FTS) is placed within 30 days of the contract award where required. In the case where contracts are awarded under the regime covering Light Touch Services or Dynamic Purchasing System, award notices may be grouped together in accordance with regulation 74 for Light-Touch Services and regulation 50(5) for Dynamic Purchasing Systems.
 - (iv) For every Contract or Framework Agreement covered by the Public Contract Regulations, and every time a Dynamic Purchasing System is established, the Procuring Officer shall draw up a written report in accordance with the requirements outlined in regulation 84 of PCR.
- (e) The Procuring Officer must notify the appropriate Commercial Specialist in writing of any contract (including framework call off contracts) that has been awarded with a Total Value of £5,000 or more.

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- (f) In the case of the Provider Selection Regime the relevant notification to awards must be adhered to dependent on the route to market deemed most appropriate

RULE 25
Form of Contract

- (a) A Contract shall be formed:
- (i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or
 - (ii) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or discussions; or
 - (iii) by placing an order in accordance with Rule 26.
- (b) In determining and negotiating the terms and conditions of contract, the Procuring Officer must ensure that the appropriate Standard Terms and Conditions are incorporated unless the Procuring Officer having consulted the appropriate Director of Law and Governance and the appropriate Commercial Specialist considers it inappropriate to do so.
- (c) All contracts with an Estimated Value of £25,000 or more must be in writing and where appropriate the appropriate Chief Officer shall:
- (i) ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.
 - (ii) decide whether it is necessary to require suppliers to provide a Performance Bond with a third party. The need for this will depend on an assessment of the risk associated with the contract or the supplier.
 - (iii) ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Finance Officer shall be consulted on the insurance requirements.

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- (iv) consult the Chief Finance Officer on the appropriate VAT requirements.
- (d) Every contract must be signed (by electronic means or otherwise) by the appropriate Officer as defined in the scheme of delegation table below.
- (e) The Director of Law and Governance has designated the following officers to sign contracts, in accordance with Article 14.04(a):

Contract Value (including possible extensions)		Designated Officer authorised to sign the contract
From £0	Up to £24,999	Team Manager (Grade 12-14)
From £25,000	Up to £175,000	Head of Service (Grade 15-17)
From £175,001	Up to £499,999	Assistant Director (Grade 17-19)
From £500,000 and above		Director (Grade 18 and above)

- (f) The Procuring Officer shall comply with the General Data Protection Regulation (GDPR) and Data Protection Act 2018 requirements and shall include in the contract appropriate provisions.

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- (g) The Procuring Officer shall ensure the contract includes a Right to Audit Clause.

RULE 25A**Contract Management**

(Rule 25A is not yet adopted by ESPO)

- (a) The Procuring Officer shall advise the Commercial Officer or Commercial Specialist who shall immediately upon completion of every Procurement Exercise;
- (i) In respect of contracts having a value of less than £25,000 and where the Electronic Tendering System has not been used, enter the Contract details in the Council's contracts register;
- (ii) In respect of contracts of whatever value handled via the Electronic Tendering System the Procuring Officer shall ensure that the details of the Contract are published in the Council's contracts register.
- (b) All contracts shall be managed in accordance with these Rules and the Council's contract management toolkit which can be found in the Commissioning Toolkit on the Council's intranet.
- (c) The authorised officer or Contract Manager responsible for the management of the Contract shall:
- (i) Obtain prior approval in accordance with Rule 30 before proceeding to authorise (in writing) any modification/extension to the Contract;
- (ii) Ensure all documentation is uploaded to the Council's Contracts Register;
- (iii) Ensure that a record is kept of all certificates and instructions issued under the Contract;
- (iv) Keep documents in support of each payment showing how the payment amount has been valued and maintain a record of all such payments including any professional fees;
- (v) Prior to the contract renewal notice period for a contract, consult the relevant Commercial Specialist to review opportunities for contract negotiations for favourable contract terms;
- (vi) Before terminating any contract and in particular for breach, consult the Director of Law and Governance;
- (vii) Resolve all contractual matters and contractual claims, and issue any final account and final certificate in accordance

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with the terms of the Contract, taking advice from the Director of Law and Governance.

RULE 26***Orders for work, goods and services***

Orders for work, goods and services must only be placed in accordance with Instruction 8 of the Standard Financial Instructions.

STANDING LISTS**RULE 27*****Standing Lists***

- (a) Standing Lists must not be created or added to without the prior written approval of the appropriate Chief Officer in consultation with the appropriate Commercial Specialist.
- (b) Procuring Officers must not use a Standing List where the total value of contracts to be awarded using the Standing List is estimated to exceed the relevant UK Threshold.
- (c) The Standing List must contain the names of all Persons who are approved and indicate the categories of contract and the values or amounts in respect of those categories for which those Persons are approved.
- (d) At least four weeks before a list is first compiled, the Procuring Officer must publish on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market a notice inviting applications by a specified date for inclusion in it.
- (e) Procuring Officers must renew all Standing Lists at intervals not exceeding four years. At least four weeks before each renewal, each Person whose name appears in the list must be notified by the Procuring Officer of the intention to review the list. If they wish to remain on the list they must re-apply for inclusion. Procuring Officers must ensure that notices inviting applications for inclusion in the list are published in the manner provided by Rule 27(d).
- (f) In cases where the use of a Standing List has been authorised the Procuring Officer must send Invitations to Tender to not less than four of the Persons from among those approved for a contract of the relevant category and amount or value. Where fewer than four Persons are approved for a contract of the relevant category and amount or value Invitations to Tender shall be sent to no fewer than three Persons. Where

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there are fewer than three Persons the procedure for Standing Lists must not be used unless the appropriate Commercial Specialist advises otherwise.

- (g) The Procuring Officer in consultation with the Commercial Specialist shall determine the criteria for selecting Persons from the list.
- (h) In such circumstances as the Director of Corporate Resources shall determine, Procuring Officers shall provide such information as shall reasonably be necessary of the extent to which Standing Lists have been utilised.

FRAMEWORK AGREEMENTS**RULE 28*****Framework Agreements***

- (a) Procuring Officers must establish all Framework Agreements in accordance with these Rules.
- (b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of Corporate Resources following consultation with the Director of Law and Governance.
- (c) All suppliers on the Framework Agreement capable of performing the contract must be invited to participate in a Further Competition unless it is clear from the terms of the Framework Agreement which supplier best meets the award methodology set out in the Framework Agreement in which case that supplier may be selected provided the Procuring Officer can demonstrate value for money. Direct Award on frameworks must be first discussed with a relevant Commercial Specialist before proceeding if the value exceeds the threshold.
- (d) Additional suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:
 - (i) the Estimated Value is below the UK Threshold; or
 - (ii) the services tendered are Light-Touch Services to which the full regime of the Public Contracts Regulations 2015 is not considered to apply: or
 - (iii) the services tendered are Healthcare services to which the Health Care Services (Provider Selection Regime) Regulations 2023 apply:
 - (iv) and in whichever case ((i) (ii) or (iii) above) provided that the Invitation to Tender states:

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- (aa) that new suppliers may be added to the Framework Agreement; and
 - (bb) how many suppliers can apply to be added to the Framework Agreement; and
 - (cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.
- (e) Each use of a Framework agreement either by call off or direct award must be included on the Contracts Register within 30 days of award.

RULE 29***Dynamic Purchasing Systems***

Procuring Officers must only establish Dynamic Purchasing Systems with the prior written approval of a Senior Commercial Specialist and the Director of Corporate Resources and in accordance with the requirements of the Public Contracts Regulations 2015 and these Rules where appropriate.

CONTRACT AMENDMENTS**RULE 30*****Contract Modifications and Extensions***

What is the Modification?	What approval is required?
<p>30a)</p> <p>Where the contract modification meets all the following:</p> <ul style="list-style-type: none"> i) Modification value is below £179,087 (ex VAT) – this value shall be net cumulative of all modifications to the contract. ii) Modification value is within 10% greater or lesser of the original contract value. iii) Does not alter the overall nature of the original contract. <p>or</p> <p>Where the contract modification meets all the following and was procured under the provider selection regime:</p> <ul style="list-style-type: none"> i) Modification value is below £500,000 (ex VAT) – this value 	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification</p> <p>All approvals need authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist. In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the modification is equal to or exceeds £100,000 the modification must be approved

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<p>shall be net cumulative of all modifications to the contract.</p> <p>ii) Modification is 25% greater or lesser the original contract value.</p> <p>iii) Does not alter the overall nature of the original contract.</p>	<p>by the Assistant Director for Finance.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30(b) Where the contract modification meets all the following:</p> <p>i) Modification value is below £25,000</p> <p>ii) Modification value is above 10% greater or lesser the original contract value.</p> <p>iii) The overall contract value including this modification does not exceed £179,087 (ex VAT).</p> <p>iv) Does not alter the overall nature of the original contract.</p>	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30c) All other contract modifications.</p>	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification.</p> <p>Modification approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist and authorisation from the Director of Corporate Resources and the Director of Law and Governance.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the</p>

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	Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.
What is the Extension?	What approval is required?
<p>30d) Where a Contract Extension has been provided for both in the Initial Procurement Documents and in the Contract in clear and precise terms.</p> <p>Or</p> <p>Where the Contract Extension</p> <ul style="list-style-type: none"> i) Value is below £179,087 (ex VAT) – this value shall be net cumulative of all extensions to this contract. ii) Value is within 10% up of the original contract value. iii) Does not alter the overall nature of the original contract. 	<p>Extension form must be completed outlining the full reasons for the request to extend the contract.</p> <p>Approval needs authorisation from the Chief Officer in consultation with the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any extension being agreed the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30e) All other Contract Extensions</p>	<p>Extension form must be completed outlining the full reasons for the request and the need for an extension to the contract.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist and authorisation from the Director of Corporate Resources and the Director of Law and Governance.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any extension being agreed the Contract the Procuring Officer must</p>

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	ensure that sufficient additional budget provision has been approved by the budget holder.
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RULE 31***Novation of Existing Contracts***

The novation of a Contract to a new Person irrespective of value requires the prior written approval of the Director of Corporate Resources in consultation with the Director of Law and Governance (or the Director of ESPO in the case of ESPO).

RULE 32***Early Termination of Contracts***

Unless a provision for early termination is clearly stated in the Contract, Procuring Officers shall seek advice from the Director of Law and Governance where it is intended to terminate a contract early. Where the Total Value of the Contract is equal to £179,087 or more the prior written approval of the Director of Corporate Resources shall also be obtained.

MISCELLANEOUS PROVISIONS**RULE 33*****Application of these Rules to ESPO***

- (a) Where acting solely on behalf of the Council ESPO must comply with these Rules where applicable.
- (b) In cases where ESPO is acting on behalf of the Council:
 - (i) ESPO is authorised to act as agent of the Council in place of the appropriate Chief Officer or Procuring Officer for the purposes of Rules 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27 and 28 and these Rules shall be construed accordingly.
 - (ii) ESPO is authorised to act as agent of the Chief Executive for the purposes of Rules 18, 19 and 20.
 - (iii) For the avoidance of doubt, decisions under Rule 23 shall remain the responsibility of Procuring Officers who may receive advice from ESPO.

Part 4G Contract Procedure Rules**RULE 34*****Document Retention***

- (a) All Contract records, that might be required in court proceedings must be retained for at least six years and any under seal for at least twelve years from expiry of the Contract.
- (b) Where the Contract is externally funded any contingent liabilities and/or grant conditions must be taken account of by the length of the retention period.

RULE 35***Supervision of Contracts by Third Parties***

- (a) The Procuring Officer shall ensure that it is a condition of any contract between the Council and any Person (not being an Officer of the Council) who is involved in a Procurement Exercise or the management of a contract on behalf of the Council that in relation to that contract he must comply with the requirements of these Rules and other reasonable requirements of the Council.
- (b) Such Person must:
 - (i) at any time during the carrying out of the Contract produce to the appropriate Chief Officer or his representative, Commercial Specialist or in the case of ESPO an officer with delegated authority or Council Auditor on request all records maintained by him in relation to the Contract; and
 - (ii) on completion of the Contract transmit all records to the appropriate Chief Officer, Commercial Specialist or in the case of ESPO an officer with delegated authority.

RULE 36***Nominated Sub-Contractors and Suppliers***

- (a) Where a sub-contractor or supplier is to be nominated by the Council to a main contractor, the provisions of these Rules shall have effect.
- (b) The terms of an Invitation to Tender under Rule 18 must require an undertaking by the Tenderer that, if selected, they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work, supplies or services included in the sub-contract.

SCHEDULE 1

Interpretation

1. “appropriate Chief Officer” means the Chief Officer responsible for the function to which the Contract relates except that, where another Chief Officer is responsible for the letting of the Contract, it shall mean that Chief Officer in consultation with the Chief Officer on whose behalf the Contract is to be let. Refer to the following for the list of Chief Officers: <https://www.leicestershire.gov.uk/about-the-council/how-the-council-works/leader-and-cabinet/chief-officers-of-the-council> (In the case of ESPO the Chief Officer refers to the Director of ESPO).
2. “Best Value” means the duty of the Council to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
3. “Chief Finance Officer” is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. The functions of the Chief Finance Officer are set out in Article 12 of Part 2 of the Council’s Constitution.
4. “Commercial Specialist” means an Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. If there is no Commercial Specialist for the goods, services and/or works being procured then the Senior Commercial Specialists or Procurement and Commissioning Support Manager will adopt this role.
5. “Concession Contract” means a works concession Contract or services concession Contract for pecuniary interest concluded in writing by means of which the Council entrusts the execution of works or the provision and the management of services (other than the execution of works) to one or more economic operators, the consideration for which consists either solely in the right to exploit the works or the services that are the subject of the Contract or in that right together with payment; and that meets the requirements of Regulation 3(4) of the Concession Contracts Regulations 2016 (CCR 2016).

Regulation 3(4) of the CCR 2016 further defines the necessary requirements of the arrangement for the purposes of the regime, which are :

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- (i) the award of the Contract must transfer to the concessionaire the operating risk in exploiting the works or services encompassing demand or supply risk or both; and
 - (ii) the part of the risk transferred to the concessionaire involves real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible.
6. "Concession Contracts Regulations 2016" means the Concession Contracts Regulations 2016 as amended, consolidated, extended, re-enacted or replaced. These Regulations implement Directive 2014/23/EU of the European Parliament and of the Council of 19 February 2014 on public procurement in the field of concession contracts, and of the Council on Public Procurement.
 7. "Contract" means a binding agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.
 8. "Contract Extension" means an extension to the duration of the Contract, but not including any alteration to the scope of the Contract.
 9. "Contracts Finder" means the web-based portal provided for the purposes of Part 4 of the Public Contracts Regulations 2015.
 10. "Contract Opportunity Publication" is the means by which a Procurement Exercise is advertised, and includes (where appropriate) the 'Contract Notice' and Contracts Finder as defined in the Public Contracts Regulations 2015.
 11. "Contract Manager" means an Officer responsible for the administration and management of the Contract.
 12. "Contract Modification" means an alteration to the scope of the contract.
 13. "Contracts Register" means a register of (current) contracts, commissioned activity, purchase orders, framework agreements and any other legally enforceable agreement with a value that exceeds £25,000 entered into by the Council and held on the Council's electronic tendering system.
 14. "Corporate Contract" means any Contract or Framework Agreement or other arrangement approved for use in sourcing a particular requirement in consultation with the relevant Commercial Specialist, and put in place by the Council itself, ESPO, or any other public sector organisation (including other Local Authorities) or consortium in which

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the Council is entitled to participate and which, where necessary, has been awarded in compliance with EU Retained law.

15. "Council" means Leicestershire County Council.
16. "Direct Employee: a person who works as an employee of the Council and is paid a salary by it, rather than being employed through an agency or other third party."
17. "Dynamic Purchasing System" means a completely electronic process, which has a limited duration, for making commonly used purchases, as more particularly defined and described in the Public Contract Regulations 2015.
18. "Electronic Tendering System" means an electronic tendering system approved in accordance with Rule 5 (h) (ii).
19. "ESPO" means the Eastern Shires Purchasing Organisation being a local authority purchasing and distribution consortium of which the Council is a joint member authority.
20. "Estimated Value" means the value as estimated under Rule 10.
21. "E-Tender" means a Tender that has been submitted using an Electronic Tendering System.
22. "EU Retained law" is where some EU law was carried over into UK law after the UK exit from the European Union on the 31st December 2020. The means by which this was done was via the European Union (Withdrawal Act 2018.) The retained EU law includes i) domestic law which was implemented or related to former EU obligations; ii) EU Legislation which was applicable in the UK without implementing legislation; and iii) other rights and principles in EU law (such as EU treaties) that has direct effect in the UK.
23. "Executive" means the executive or committee determined in accordance with the Council's constitution.
24. "Formal Tender Process" is a process following the requirements of Open Tendering, Restricted Tendering, Standing List, Negotiated Procedure, Competitive procedure with Negotiation, Competitive Dialogue or Innovation Partnership Procedure. And Formal Tender shall be construed accordingly.
25. "Framework Agreement" is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. The

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Framework Agreement may, itself, be a contract to which the EU Retained procurement directives and Public Contracts Regulations 2015 or the Health Care Services (Provider Selection Regime) Regulations 2023 apply.

26. "Further Competition" is undertaken where not all the terms of a proposed contract are laid down in a Framework Agreement. It involves re-opening competition between the economic operators which are parties to the Framework Agreement and which are capable of performing the proposed contract, on the basis of the same or, if necessary, more precisely formulated terms, and where appropriate other terms referred to in the contract documents based on the Framework Agreement.
27. "Invitation to Tender" means the document(s) containing the specification, proposed terms and conditions and other appropriate information as issued to the Tenderers to solicit Formal Tenders.
28. "Irregular Tender" means a Tender that does not fully comply with the instructions given in the Invitation to Tender.
29. "Life-Cycle Costing" means all or part of the following costs over the life-cycle of a product, service or works, to the extent that they are relevant:
 - (a) Costs of acquisition;
 - (b) Costs of use, such as consumption of energy and other resources;
 - (c) Maintenance costs;
 - (d) End of life costs, such as collection and recycling costs;
 - (e) Costs imputed to the environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified. These costs may include the costs of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.
30. "Light-Touch Services" means those services referred to in regulation 74 and Schedule 3 of the Public Contracts Regulations 2015.
31. "Officer" means an employee of the Council.
32. "Person" includes a partnership, body corporate or unincorporated association.
34. "Post Tender Negotiations" means the ability to negotiate with a Tenderer after a Tender has been opened and evaluated in accordance with the published evaluation criteria for the purposes of securing an

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improvement in the delivery of the contract including but not limited to improvements in price.

35. "Procurement Exercise" means any process by which goods, services and/or works are to be procured including but not limited to Request for Quotations and Formal Tender Processes. For the purpose of these Rules a contract for a Concession, a contract via a Framework Agreement/Dynamic Purchasing system shall be treated as a Procurement Exercise.
36. "Procuring Officer" means any Officer, acting under the delegated powers of the appropriate Chief Officer, who is responsible for the procurement of works, goods and/or services.
37. "Provider Selection Regime" means a set of rules for procuring health care services in England by organisations termed relevant authorities. The Provider Selection Regime (PSR) came into force on 1 January 2024.
38. "Public Contracts Regulations 2015" means the Public Contracts Regulations 2015 as amended, consolidated, extended, re-enacted or replaced. These Regulations implement Statutory Instrument 2015 No. 102 and of the Council on Public Procurement.
39. "Quotation" means an offer to sell works, goods and/or services at a stated price under specified conditions. A Quotation may or may not be written.
40. "Request for Quotation" ("RFQ") means a document or documents containing the specification, and proposed terms and conditions issued to potential suppliers to solicit written Quotations.
41. "Standard Terms and Conditions" means standard contractual terms used by Leicestershire County Council, including those attached to procurement orders or orders generated by 'line of business' systems, those included in Request for Quotation templates, and standard industry terms.
42. "Standard Selection questionnaire" means a questionnaire that complies with the Crown Commercial Service statutory guidance relating to Standard Selection Questionnaires.
43. "Standing List" means a list of Persons which has been established in accordance with Rule 27.

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44. "Suitability Assessment Question" means a question which relates to the subject matter of the procurement and is proportionate and which the Council requires for assessing the Tenderers suitability.
45. "The Council's Strategic Plan 2022-26" means the strategy document that explains how the Council's commissioning and procurement activity will be used between 2018 and 2022 to improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.
46. "Tender" means the formal offer from a Tenderer, which is capable of acceptance by the Council, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements as well as information about the Tenderer. A written Quotation is also a Tender. The term "Tender" also includes an E-Tender except where the context implies otherwise.
47. "Tenderer" or "Tenderers" means the Person or Persons invited to participate in a Procurement Exercise.
48. "Total Value" means the value of a contract which has been calculated in accordance with Rule 10(b) (excluding Rule 10(b)(vii)) reading where appropriate Total Value for Estimated Value.
49. "UK e-notification service" known as "FTS" (Find a Tender Service) is defined in the Public Contracts Regulations 2015 (as amended).
50. "UK Threshold" means the respective threshold for Services, Supplies, Works or Light-Touch Services contracts referred to in the Public Contract Regulations 2015
51. "In writing" or "written" for the purpose of interpreting these Rules includes transmission by any electronic means which have been approved by the Director of Law and Governance in consultation with the Director of Corporate Resources.
52. Words imparting the masculine include the feminine gender.
53. "Rule(s)" means these Contract Procedure rules as may be amended from time to time.

[end of Contract Procedure Rules]

Part 4 G

Contract Procedure Rules

February 2024

Part 4 G - Contract Procedure Rules**GENERAL****RULE 1**
Compliance

- (a) Officers must comply with these Rules. Failure to do so may result in disciplinary action.
- (b) Where a procurement under these rules involves a key decision, as determined by the appropriate Chief Officer, then prior to the commencement of the procurement this must be taken to the Executive. Key decisions are defined in Rule 8 of the Executive Procedure Rules (Part 4D) of this Constitution. In the case of ESPO only if a decision does not fall within Appendix 4 to Schedule 1: Functions of, and Delegations to the Director of ESPO, the decision can be escalated to the Director of ESPO, the decision can be escalated to the Chief Officers Group or Management Committee.
- (c) Sale of council assets are not part of these rules. They are covered by Rule 25 Purchasing and income collections and Rule 26 Inventories and assets of the Financial Procedure Rules (Part 4F) of the Constitution.

RULE 2
Delegation

Appropriate Chief Officers and the Director of Law and Governance may delegate their responsibilities under these Rules in accordance with Rule 6 of Section D (General scheme of delegation to heads of departments) of Part 3 (Responsibility for Functions) of the Constitution.

RULE 3
Interpretation

Words and expressions used in these Rules are to be interpreted in accordance with the provisions of Schedule 1.

RULE 4
Application

These Rules apply to every procurement contract made by or on behalf of the Council except contracts:

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- (a) for only the acquisition or disposal of any interest in land;
- (b) for the lending or borrowing of money;
- (c) of employment (making an individual a direct employee of the Council).
- (d) for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of the Financial Services and Market Act 2000 (Markets in Financial Instruments) Regulation 2017 – UK Statutory Instruments 2017 No. 701.

PROCUREMENT PRINCIPLES**RULE 5*****General Requirements***

- (a) Every Contract or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council's policies and must be made in accordance with the Council's duty of Best Value and in line with the Council's Strategic Plan 2022-26.
- (b) (i) Social Value will be considered in any contract with an estimated value equal to or greater than £50,000 in one of the of the following two ways:
 - As award criteria linked to the Council's Social Value Policy Statement and the Council's Strategic Plan 2022 – 2026;
 - As Outcomes built into the Specification or contract.
- (ii) Social Value will be addressed at contract management for any contract with a value equal to or greater than £50,000.
- (iii) Where Social Value has not been considered within either the tender process or specification, the reason shall be recorded and forwarded for approval to the relevant Commercial Specialist.
- (c) Where the services are Light-Touch Services the threshold for contracts for public supply or services contracts applies for the purposes of the Social Value Act, being the sum specified in regulation 5 (1) (d) of the Public Contracts Regulations 2015.
- (d) Where the services are required to be procured under The Health Care Services (Provider Selection Regime) Regulations 2023, Social Value will need to be considered regardless of the estimated contract value.

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- (e) Use of Corporate Contracts: The Procuring Officer must ensure that whenever Corporate Contracts have been approved by a Commercial Specialist that supplies, services and works are ordered via these. Intention to award via these contracts where the value exceeds £25,000 the Procuring Officer should include consultation with the relevant Commercial Specialist, before completing the award. The Procuring Officer must consider what risks the contract presents ahead of any procurement exercise, considerations must include those relating to Health and Safety, Business Continuity, Compliance with the Modern Slavery Act 2015 and Information Security. The Procuring Officer may not procure outside of the Corporate Contract unless it is agreed by the Commercial Specialist that better value for money can be clearly demonstrated outside of these approved Corporate Contracts. All such instances involving ESPO must be notified to ESPO by the Commercial Specialist.

- (f) Procedures set out in the relevant EU Retained law, Acts of Parliament and UK legislation (including for the avoidance of doubt the Public Contracts Regulations 2015 the Concession Contracts Regulations 2016, the Health Care Services (Provider Selection Regime) Regulations 2023 and where applicable the Public Contracts Regulations 2006) must be complied with at all times.

- (g) Based on criteria laid down by the Executive, the Chief Finance Officer will be responsible for evaluating the financial status of Tenderers and suppliers.

- (h) The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.

- (i) Procurement Exercises should usually be undertaken by electronic means provided that:-
 - (j) the requirements of these Rules are followed with only such modifications as may be necessary to allow for procurement by such means; and
 - (ii) any electronic tendering system has been approved by the Director of Law and Governance following consultation with the Director of Corporate Resources.

- (i) Subject to the provisions of Rule 28(b) Contracts shall not be longer than 5 years (including extensions) in duration or of indeterminate length without the prior written approval of the Director of Corporate Resources, such approval to be obtained prior to the commencement of the Procurement Exercise.

RULE 6
Exceptions

What is the Exception?	What approval is required?
<p>6a) Direct purchase for supplies, materials, services or works which are available only as proprietary and/or patented articles, services or works from one contractor or supplier where there is no reasonably satisfactory alternative available in the UK and for repairs (to maintain warranties) to, or the supply of, parts of existing proprietary or patented articles or works, including machinery or plant.</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the contract value/ exception is equal to or exceeds £100,000 the exception must be approved by the Assistant Director for Finance. • Where the contract value/ exception is equal to or exceeds £179,087 a copy of the exception form and reasons must be authorised by the Director of Corporate Resources and the Director of Law and Governance. <p>Where the contract value/ exception is below £25,000 Rule 11 can apply.</p> <p>The approved form must be retained in the appropriate file.</p>
<p>6b) Direct purchase without advertising of works of art, museum specimens or historical documents.</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £179,087 a copy of the exception form/note and reasons must be authorised by the Director of Corporate Resources and the Director of Law and Governance.

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	The approved form must be retained in the appropriate file.
<p>6c) Direct purchase for the following social care services provided that the Estimated Value of such services does not exceed the UK threshold for Light-Touch service contracts:</p> <p>i.) residential placements sought for an individual with a registered care provider of their choice;</p> <p>ii.) 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 and Care Act 2014;</p> <p>iii.) social care packages managed by or on behalf of individual clients under the personalisation agenda;</p> <p>iv.) where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the appropriate Chief Officer.</p> <p>v.) residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).</p>	<p>Exception note must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Supplier Relationship Manager should be consulted to ensure value for money is attained. <p>The approved note must be retained in the appropriate file.</p> <p>In each case the appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards legislative or otherwise, (for example those standards set by the Care Act 2014, OFSTED and HMI) and Contract Procedure Rules that a record of the reasons for the choice of provider is maintained on the individual's case notes as well as submitting to the relevant Commercial Specialist justification and evidence for exception placements.</p> <p>A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.</p>
<p>6d) Direct purchase for those unforeseen emergencies, where immediate action is required to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £179,087 a copy of the exception form and reasons must be authorised by the Director of Corporate

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	<p>Resources and the Director of Law and Governance.</p> <p>The approved form must be retained in the appropriate file.</p>
6e) Other exceptions to these Rules	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £100,000 the exception must be authorised by the Assistant Director for Finance and also; • Where the contract is equal to or exceeds £179,087 a copy of the exception form and reasons must be also authorised by the Director of Corporate Resources and the Director of Law and Governance along with the Executive and Leader or Deputy Leader where the Leader is not practical. The requesting department is responsible for ensuring Cabinet approval is sought; • In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive. <p>The approved form must be retained in the appropriate file.</p>

RULE 7***Financial Thresholds and Delegation***

- (a) Financial limits and thresholds within these Rules may be varied from time to time by the Corporate Governance Committee.
- (b) Arrangements for delegation of functions to Officers within these Rules may be varied from time to time by the Chief Executive.

RULE 8***Annual Reporting***

- (a) The Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules (except those granted under Rule 6(iv)) and approved extensions to contract where not provided for in the contract, and proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU Retained procurement law as may be necessary from time to time.
- (b) An annual summary of the number of contracts awarded using the Provider Selection Regime, in the year to which the summary relates where Direct Award Process A, Direct Award Process B, Direct Award Process C, the Most Suitable Provider Process or the Competitive Process was followed.

RULE 9***Prevention of Corruption / Conflict of Interest***

- (a) The Employee Code of Conduct (Part 5b of the Constitution) applies to any Procurement Exercise.
- (b) The following clause, or a clause that is substantially similar, will be included as a standard term and condition in every written contract in accordance with Rule 25(c):
"The Council may terminate this contract and recover all its loss from the Contractor if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:
 - (i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done); or
 - (ii) commit an offence under the Bribery Act 2010 or give any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972; or

Part 4G Contract Procedure Rules

- (iii) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the Contractor's liability shall not apply to this clause".

- (c) The Council's Supplier Code of Conduct applies to any Procurement Exercise.

RULE 9A
Counter Terrorism and Security Act 2015

Where appropriate, the Contract shall make appropriate provision for information sharing between the Contractor and the Council in line with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism.

PROCUREMENT EXERCISE

RULE 10
Pre-Estimate

- (a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this Rule. The estimated value for the Procurement must not be subdivided for the purpose of reducing the total value of the contract for multiple procurements.
- (b) The Estimated Value shall be calculated as follows:
 - (i) Where the contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the contract;
 - (ii) Where the contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;
 - (iii) For feasibility studies the Estimated Value shall include the value of the study and any subsequent contracts which may be awarded to the same supplier as a result where this is known;
 - (iv) For Concession Contracts the Estimated Value shall be the estimated financial value to the supplier that shall be made over the duration of the Contract, net of value added tax;

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- (v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;
 - (vi) Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12 month period;
 - (vii) Where the Council may be contributing only part of the Total Value of a contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules.
- (c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 11 must be used.
- (d) Where the Estimated Value is:
- (i) £5,000 or more the Procuring Officer must notify in writing the appropriate Commercial Specialist of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.
 - (ii) £25,000 or more the spend controls guidance must be followed and a Procurement Initiation Document used (this is not applicable to ESPO).

RULE 11***Procurement Exercise Process***

- (a) Based on the Estimated Value, as identified in Rule 10, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise.
- (b) In the case of a contract for individual independent day or residential school placement sought for a child with Special Educational Needs (SEN) with an Estimated Contract Value up to the UK Threshold for Light Touch Services three quotes must be sought.
- (c) In the case of a contract or framework agreement for healthcare services (as defined by Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023), the Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations. If Direct Award Process A, B, C or The Most Suitable Provider Process are considered the most appropriate route to market, approval must be sought from the Head of Procurement & Supply Chain Management.

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- (d) All contracts with an Estimated Value equal to or greater than the UK Threshold must be referred to the Commissioning Support Unit prior to the commencement of the Procurement Exercise. The Commissioning Support Unit shall advise the Procuring Officer on the appropriate route to market which may include the use of ESPO and ESPO framework agreements, Crown Commercial Services framework agreements, etc.
- (d) Details of oral Quotations must be confirmed in writing.
- (e) Where any Corporate Contracts or Standing Lists have been set up for supplies, services or works then these Rules are deemed to have been satisfied when the arrangement was set up and do not have to be further applied, if appropriately used. When the Corporate Contract is a Framework Agreement then the Procuring Officer must comply with Rule 28(c) after consultation with a relevant Commercial Specialist on the suitability of the framework intended to be used. When using a Standing List the Procuring Officer must comply with Rule 27.
- (f) All procurements over £25,000 must be approved before any procurement activity, by the Commissioning Support Unit via the spend controls guidance and use of the Procurement Initiation Document (this is not applicable to ESPO).

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 6):

Estimated Contract Value		Procurement Process	Minimum Contract Opportunity Publication	Documentation
From	Up To			
£0	£5,000	Obtain a minimum of one oral/written Quotation	None	Record details
Above £5,000	£25,000	Seek to obtain a minimum of 3 written Quotations	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.*	Record details. (If three Quotations cannot be obtained a record of the reasons for this must be agreed in consultation with the appropriate Commercial Specialist.) When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the Contract.

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Estimated Contract Value		Procurement Process	Minimum Contract Opportunity Publication	Documentation
From	Up To			
Above £25,000	Up to but not including £179,087	Seek written Quotations (to be based on a Request for Quotation document where practical) For exceptions see Rule 6(b)	Contracts Finder and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Request for Quotation issued by the Procuring Officer and Quotations received.
Relevant UK Threshold Goods/services: £179,087 before VAT Works, Concessions and Utilities: £4,477,175 before VAT Light touch regime: £552,950	Above	Formal Tender Process (Refer to Commissioning Support)	The UK e-notification service where required, Contracts Finder and on a Website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Formal Tender and sealed bids (should be submitted via an electronic tendering system, see Rule 18(d)).

* These are total contract spend estimates equaling total contract value over the term of the contract.

* All values are not inclusive of VAT, the Threshold figures inclusive of VAT can be used on a project by project basis if it is deemed beneficial.

* The Council cannot give preference to local suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However, the Council recognises that there can be barriers limiting or restricting the ability of smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council.

RULE 12

Suitability Assessment and Award Evaluation Criteria

- (a) The Council shall not include a pre-qualification questionnaire stage where the value of the procurement is below the UK Threshold set out in Reg. 5 (1) (c) of the Public Contracts Regulations 2015. Below the UK Threshold only Suitability Assessment Questions may be asked. A standard form of Suitability Assessment Questions must be used.
- (b) In a Procurement Exercise with an estimated Value equal to or greater than the UK Threshold both selection and award criteria must be included. A

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Standard Selection Questionnaire or the Single Procurement Document must be used for the selection criteria;

- (c) Selection criteria must be included in the evaluation process where applying the Open Tendering procedure (Rule 15) or must be the only criteria used for the shortlisting methodology where applying the Restricted Tendering procedure (Rule 16).

RULE 13***Award and Evaluation Criteria***

- (a) The award criteria shall be based on the most economically advantageous Tender from the Council's point of view. That Tender shall be identified on the basis of price or cost, using a cost- effectiveness approach, such as Life-Cycle Costing and may include the best price-quality ratio which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects or any other criteria linked to the subject-matter of the Contract in question.
- (b) When procuring Healthcare services, the five Key Criteria as stated in the Health Care Services (Provider Selection Regime) Regulations 2023 must all be evaluated. These are:
- Quality and innovation
 - Value
 - Integration, collaboration, and service sustainability
 - Improving access, reducing health inequalities, and facilitating choice
 - Social value
- (c) Before a contract can be awarded following an Open Tender procedure the supplier must meet the minimum standard for the selection criteria included in the evaluation process.
- (d) In the case of a Procurement Exercise with an Estimated Value of £25,000 or more the process for identifying the most economically advantageous Tender, including selection and award criteria, must be agreed in consultation with the appropriate Commercial Specialist and included in the RFQ/Invitation to Tender and a copy retained on file.
- (e) The Procuring Officer must notify all Tenderers of the award methodology and evaluation criteria being used in the case of the contract in question. If weightings are to be applied to the criteria then the Procuring Officer must ensure that these are also incorporated into the Invitation to Tender.

RULE 14
Contract Opportunity Publication

- (a) Unless otherwise agreed by the appropriate Chief Officer, the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of £25,000 or more but less than the relevant UK Threshold, that Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.
- (b) All Procurement Exercises with an Estimated Value of £25,000 or more must be advertised on Contracts Finder within 24 hours of the time when the Procurement Exercise is advertised in any other way. Procurement exercises over the relevant UK Threshold must be advertised on the UK e-notification service known as Find a Tender Service (FTS) and on Contracts Finder.
- (c) For all proposed contracts which are advertised where the Estimated Value is below the UK Threshold, a period of at least ten working days should be allowed between the date when an Invitation to Tender becomes available to all bidders and either:
 - (i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or
 - (ii) the deadline for receipt of the standard form of Suitability Assessment Questions or the Single Procurement Document, where a Restricted Tendering procedure is being used.
- (d) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained, how and to whom an interested supplier is to respond and any other requirements such as suitability requirements or explanatory information.
- (e) If the Estimated Value exceeds the relevant UK Threshold the Procuring Officer must ensure that Contract Opportunity Publication is first published on the UK e-notification service known as Find a Tender Service (FTS) and then on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market and in Contracts Finder.
- (f) A Procurement Exercise that is equal to or more than the UK Threshold for Light-Touch Services must be procured in compliance with Chapter 3, section 7 of the Public Contracts Regulations 2015.

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- (g) Where a contract opportunity is equal to or greater than the UK Threshold a Contract Opportunity Publication should not appear in any form before publication on the UK e-notification service and neither should any advertisement contain any more information than that published on the UK e-notification service known as Find a Tender Service (FTS).

- (h) The advertising requirements set out in this Rule 14 are minimum requirements and do not preclude further Contract Opportunity Publication where appropriate (e.g. in the local newspaper, trade or professional journal, the Council website).

PROCUREMENT PROCESS**RULE 15**
Open Tendering

Under Open Tendering, Procuring Officers must send Invitations to Tender to all those Persons who respond to the Contract Opportunity Publication and who meet the requirements stated therein. Where the opportunity has been advertised via the electronic tendering system the Invitation to Tenders and all supporting documents must be made available in the system for all interested parties to access subject to confidentiality agreement where applicable.

RULE 16
Restricted Tendering

- (a) Subject to Rule 16 (b), this Rule applies to Tenders where the Estimated Value is equal to or exceeds the UK Threshold.
- (b) Where the services being tendered are Light-Touch Services the Procuring Officer may choose to use this Restricted Tendering procedure but is not required to.
- (c) Under Restricted Tendering, Procuring Officers need only send Invitations to Tender to:
 - (i) not less than five of the Persons who respond to the Contract Opportunity Publication and who best meet the shortlisting methodology agreed in Rule 12(c); or
 - (ii) where fewer than five Persons have applied or are considered suitable, to all those Persons who equal or exceed the minimum requirements for the shortlisting methodology agreed in Rule 12(c).
- (d) The shortlisting criteria and process must be prepared (in consultation with the Commercial Specialist) in advance of the issue of the Standard Selection Questionnaire or the Single Procurement Document and a copy retained on file.
- (e) All Persons that do not qualify for inclusion on the shortlist to receive an Invitation to Tender must receive notice that they have been excluded from the Procurement Exercise. Any Person requesting in

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writing the reasons why they were unsuccessful shall be informed by the Procuring Officer of the reasons for the Council's decision.

RULE 17***Negotiated Procedure, Competitive Procedure with Negotiation, Competitive Dialogue Procedure and Innovation Partnership Procedure***

The Negotiated Procedure, Competitive Procedure with Negotiation, Competitive Dialogue Procedure or Innovation Partnership Procedure must only be used with the prior approval of the Director of Law and Governance and the Director of Corporate Resources. Competitive Procedure with Negotiation or Competitive Dialogue can only be used when criteria under PCR Reg.26(4) are met. Competitive Procedure with Negotiation or Competitive Dialogue can only be used when criteria under PCR Reg. 26(4) are met.

RULE 17A***Concession Contracts***

Procuring Officers must only establish Concession Contracts with prior consultation of the Director of Law and Governance and with the prior approval of the Director of Corporate Resources also in the case of Concession Contracts above the UK Threshold.

RULE 18***Invitations to Tender***

- (a) Every Invitation to Tender must specify the latest day and hour and the place appointed for the receipt of Tenders and must state the effect of Rule 19.
- (b) Procuring Officers must give all Tenderers the same information about the Procurement Exercise and in particular information relating to the Tender process, specification, award methodology and evaluation criteria and the terms and conditions of the Contract or Framework agreement.
- (c) Procuring Officers must also give all Tenderers the same information relating to questions, answers and clarifications raised during the Procurement Exercise unless they relate solely to another Person's Tender.

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- (d) All Procurement Exercises equal to or greater than £25,000 shall be handled via an Electronic Tendering System where possible. Only in exceptional cases may a Procurement Exercise be undertaken not using an Electronic Tendering System. Paper Tenders must be submitted to, addressed to and opened by the Chief Executive. Where the Estimated value is below £25,000 the Tenders may be returned directly to the Procuring Officer.
- (e) Where an Electronic Tendering System is not available and paper Tenders are to be received by the Chief Executive, the Procuring Officer must send to the Chief Executive a note of the subject and the closing date and time and (where appropriate) a list of the Persons invited to Tender together with the Estimated Value before the closing date for receipt of Tenders.

RULE 19
Irregular Tenders

- (a) An Irregular Tender must not be accepted by either the Chief Executive or the Procuring Officer, other than in accordance with this Rule.
- (b) A Tender is not valid unless it has been either submitted via an Electronic Tendering System or in the case of paper tenders delivered to the place appointed in accordance with Rule 18 and not later than the appointed day and hour.
- (c) Tenders other than E-Tenders where the Estimated Value is equal to or greater than £179,087 are not valid unless they are received in a plain sealed envelope or parcel addressed to the Chief Executive. The envelope or package must bear the word "Tender" followed by the subject to which it relates.
- (d) E-Tenders must be submitted in accordance with the requirements of the Electronic Tendering System used.
- (e) Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Tender and/or because it is received after the appointed time for receipt or does not comply with Rules 19(b) or 19(c), the provisions of Rules 19(f) and 19(g) apply.
- (f) A Tender other than an E-Tender which is received after the closing date and time may be opened and evaluated in accordance with Rule 20 if there is clear evidence of it having:-

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- (i) been posted by first class post at least a day before the closing date; OR
 - (ii) been posted by second class post at least three days before the closing date; OR
 - (iii) been placed in the custody of a courier who has provided written assurance of delivery prior to the closing date and time.
- (g) If in other cases of Irregular Tenders the Chief Executive considers that there are exceptional circumstances and that the Tenderer who submitted the Irregular Tender has gained no advantage from its irregularity he may determine to accept the Irregular Tender and authorise that it be opened and evaluated together with any other Tenders in accordance with Rule 20. The Chief Executive shall record in writing the reasons why each Irregular Tender has been accepted or rejected.
- (h) Irregular Tenders that the Chief Executive has rejected under this Rule must be returned to the Tenderer by the Chief Executive with a covering letter stating the reason for their rejection.

RULE 20***Receipt and Opening of Tenders***

- (a) Rules 20(b) to (f) apply only to Tenders where the Estimated Value is equal to or greater than £179,087 before VAT and the Tender is not an E-Tender. Rule 20(g) applies to E-Tenders only.
- (b) On receipt of non-electronic Tenders, envelopes containing the Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened.
- (c) The Chief Executive must keep a record of all non-electronic Tenders received.
- (d) Tenders must be opened at one time in the presence of not less than two Officers one of whom is not involved in the Procurement Exercise and who is designated by the Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped.
- (e) Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders.

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- (f) The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.
- (g) E-Tenders must be opened in accordance with the requirements of the Electronic Tendering System used.

RULE 21***Errors or Discrepancies in Tenders***

- (a) Tenderers are not allowed to alter their Tenders after opening save in accordance with this Rule or Rule 22.
- (b) Where it is suspected that there has been an error in a Tender and following the closing date for receipt of Tenders but before acceptance of any Tender discussions may take place with Tenderers in order to:
 - (i) ensure that the Tender is constructed correctly; or
 - (ii) ensure that the Tenderer has fully understood the specification; or
 - (iii) seek clarification from Tenderers of cost, quality and performance indicators.
- (c) A written note of the discussions must be made to record the suspected error, date, time, detail of the discussion and any agreement reached.

RULE 22***Discussions and Post Tender Negotiations***

- (a) In the case where the Estimated Value is below the relevant UK Threshold, the Procuring Officer in consultation with the appropriate Commercial Specialist may carry out Post Tender Negotiations with the Tenderer submitting the most competitive Tender in an attempt to secure improvements in the price or economic advantage in one or more of the following circumstances:
 - (i) where the most competitive Tender (according to the pre-determined award methodology and evaluation criteria) submitted exceeds the Estimated Value;

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- (ii) where it is considered that the price of the most competitive Tender submitted does not represent the best value for money that can reasonably be obtained;
 - (iii) where Tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items;
 - (iv) where the most competitive Tender contains conditions, trading terms, guarantees, or provisions relating to performance or service delivery less favourable than in other Tenders, or than stipulated for and this defect appears capable of being remedied by Post Tender Negotiations.
- (b) When conducting Post Tender Negotiations, the following additional Rules shall apply:
- (i) At no time during the negotiations must a Tenderer be informed of the detail of any other Tender submitted or as to whether or not the Tender he submitted was the lowest.
 - (ii) During negotiations in person there must always be present at least two officers of the Council.
 - (iii) A note of the negotiations will be made by one of the Officers present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.
 - (iv) Post Tender Negotiations shall not enable any material departure from the published specification. The Director of Law and Governance shall determine whether any proposed change to the specification constitutes a material departure.
- (c) Post Tender Negotiations are not allowed in the case of contracts with an Estimated Value exceeding the relevant UK Threshold. However, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule 21.

AWARD OF CONTRACT**RULE 23*****Acceptance of Tenders***

- (a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 13. Any evaluation sheets must be maintained on file in accordance with Rule 34.
- (b) Any Tender with an Estimated Value of below £25,000 (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the appropriate Commercial Specialist.
- (c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Rule 5(g) the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, appropriate Chief Officer or Executive prior to accepting the Tender.
- (d) Where an abnormally low Tender is submitted the Council shall require the Tenderer to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Council must reject the Tender.
- (e) Subject to Rule 1, the appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Executive to determine.

RULE 24***Notification of Contract Award***

- (a) The Procuring Officer must notify the successful Tenderer of the acceptance of their Tender and for all Procurement Exercises with an Estimated Value of £5,000 or more this notification must be in writing.
- (b) In the case where the Estimated Value is £25,000 or more the Procuring Officer must notify in writing all Tenderers who submitted a Tender of the decision as soon as possible after the decision has been made.

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- (c) Where a Contract with an Estimated Value of £25,000 or more is awarded the Council must publish information as required by the Public Contracts Regulations 2015 on Contracts Finder within 90 calendar days of the date the Contract was awarded.
- (d) In the case where the Estimated Value is equal to or greater than the relevant UK Threshold the following additional Rules shall apply:
- (i) The notice in Rule 24 (b) shall include the award criteria, the reasons for the decision, including the successful Tenderer's score, the score (if any) of the Tenderer receiving the notice, and the characteristics and (if appropriate) relative advantages of the successful Tenderer's Tender, any reasons why the recipient of the notice did not meet the technical specification, the name of the Tenderer awarded the Contract, as well as the date when the standstill period required in accordance with Rule 24 (d)(ii) will come to an end.
 - (ii) A minimum period of 10 calendar days must elapse between the day of sending the notice in Rule 24 (b) and the date on which the Council enters into a contract, if the notice is sent electronically. Where the notice is sent by other means then either 15 days from the day of sending the notice or 10 days from the day of receipt of the notice by the last Tenderer to receive the notice must elapse. In all cases counting the day after sending the notice as day 1. The standstill period must end on a working day.
 - (iii) The Procuring Officer shall ensure that a UK e-notification service contract award notice known as Find a Tender Service (FTS) is placed within 30 days of the contract award where required. In the case where contracts are awarded under the regime covering Light Touch Services or Dynamic Purchasing System, award notices may be grouped together in accordance with regulation 74 for Light-Touch Services and regulation 50(5) for Dynamic Purchasing Systems.
 - (iv) For every Contract or Framework Agreement covered by the Public Contract Regulations, and every time a Dynamic Purchasing System is established, the Procuring Officer shall draw up a written report in accordance with the requirements outlined in regulation 84 of PCR.
- (e) The Procuring Officer must notify the appropriate Commercial Specialist in writing of any contract (including framework call off contracts) that has been awarded with a Total Value of £5,000 or more.

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- (f) In the case of the Provider Selection Regime the relevant notification to awards must be adhered to dependent on the route to market deemed most appropriate

RULE 25
Form of Contract

- (a) A Contract shall be formed:
- (i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or
 - (ii) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or discussions; or
 - (iii) by placing an order in accordance with Rule 26.
- (b) In determining and negotiating the terms and conditions of contract, the Procuring Officer must ensure that the appropriate Standard Terms and Conditions are incorporated unless the Procuring Officer having consulted the appropriate Director of Law and Governance and the appropriate Commercial Specialist considers it inappropriate to do so.
- (c) All contracts with an Estimated Value of £25,000 or more must be in writing and where appropriate the appropriate Chief Officer shall:
- (i) ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.
 - (ii) decide whether it is necessary to require suppliers to provide a Performance Bond with a third party. The need for this will depend on an assessment of the risk associated with the contract or the supplier.
 - (iii) ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Finance Officer shall be consulted on the insurance requirements.

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- (iv) consult the Chief Finance Officer on the appropriate VAT requirements.
- (d) Every contract must be signed (by electronic means or otherwise) by the appropriate Officer as defined in the scheme of delegation table below.
- (e) The Director of Law and Governance has designated the following officers to sign contracts, in accordance with Article 14.04(a):

Contract Value (including possible extensions)		Designated Officer authorised to sign the contract
From £0	Up to £24,999	Team Manager (Grade 12-14)
From £25,000	Up to £175,000	Head of Service (Grade 15-17)
From £175,001	Up to £499,999	Assistant Director (Grade 17-19)
From £500,000 and above		Director (Grade 18 and above)

- (f) The Procuring Officer shall comply with the General Data Protection Regulation (GDPR) and Data Protection Act 2018 requirements and shall include in the contract appropriate provisions.

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- (g) The Procuring Officer shall ensure the contract includes a Right to Audit Clause.

RULE 25A**Contract Management**

(Rule 25A is not yet adopted by ESPO)

- (a) The Procuring Officer shall advise the Commercial Officer or Commercial Specialist who shall immediately upon completion of every Procurement Exercise;
- (i) In respect of contracts having a value of less than £25,000 and where the Electronic Tendering System has not been used, enter the Contract details in the Council's contracts register;
- (ii) In respect of contracts of whatever value handled via the Electronic Tendering System the Procuring Officer shall ensure that the details of the Contract are published in the Council's contracts register.
- (b) All contracts shall be managed in accordance with these Rules and the Council's contract management toolkit which can be found in the Commissioning Toolkit on the Council's intranet.
- (c) The authorised officer or Contract Manager responsible for the management of the Contract shall:
- (i) Obtain prior approval in accordance with Rule 30 before proceeding to authorise (in writing) any modification/extension to the Contract;
- (ii) Ensure all documentation is uploaded to the Council's Contracts Register;
- (iii) Ensure that a record is kept of all certificates and instructions issued under the Contract;
- (iv) Keep documents in support of each payment showing how the payment amount has been valued and maintain a record of all such payments including any professional fees;
- (v) Prior to the contract renewal notice period for a contract, consult the relevant Commercial Specialist to review opportunities for contract negotiations for favourable contract terms;
- (vi) Before terminating any contract and in particular for breach, consult the Director of Law and Governance;
- (vii) Resolve all contractual matters and contractual claims, and issue any final account and final certificate in accordance

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with the terms of the Contract, taking advice from the Director of Law and Governance.

RULE 26***Orders for work, goods and services***

Orders for work, goods and services must only be placed in accordance with Instruction 8 of the Standard Financial Instructions.

STANDING LISTS**RULE 27*****Standing Lists***

- (a) Standing Lists must not be created or added to without the prior written approval of the appropriate Chief Officer in consultation with the appropriate Commercial Specialist.
- (b) Procuring Officers must not use a Standing List where the total value of contracts to be awarded using the Standing List is estimated to exceed the relevant UK Threshold.
- (c) The Standing List must contain the names of all Persons who are approved and indicate the categories of contract and the values or amounts in respect of those categories for which those Persons are approved.
- (d) At least four weeks before a list is first compiled, the Procuring Officer must publish on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market a notice inviting applications by a specified date for inclusion in it.
- (e) Procuring Officers must renew all Standing Lists at intervals not exceeding four years. At least four weeks before each renewal, each Person whose name appears in the list must be notified by the Procuring Officer of the intention to review the list. If they wish to remain on the list they must re-apply for inclusion. Procuring Officers must ensure that notices inviting applications for inclusion in the list are published in the manner provided by Rule 27(d).
- (f) In cases where the use of a Standing List has been authorised the Procuring Officer must send Invitations to Tender to not less than four of the Persons from among those approved for a contract of the relevant category and amount or value. Where fewer than four Persons are approved for a contract of the relevant category and amount or value Invitations to Tender shall be sent to no fewer than three Persons. Where

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there are fewer than three Persons the procedure for Standing Lists must not be used unless the appropriate Commercial Specialist advises otherwise.

- (g) The Procuring Officer in consultation with the Commercial Specialist shall determine the criteria for selecting Persons from the list.
- (h) In such circumstances as the Director of Corporate Resources shall determine, Procuring Officers shall provide such information as shall reasonably be necessary of the extent to which Standing Lists have been utilised.

FRAMEWORK AGREEMENTS**RULE 28*****Framework Agreements***

- (a) Procuring Officers must establish all Framework Agreements in accordance with these Rules.
- (b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of Corporate Resources following consultation with the Director of Law and Governance.
- (c) All suppliers on the Framework Agreement capable of performing the contract must be invited to participate in a Further Competition unless it is clear from the terms of the Framework Agreement which supplier best meets the award methodology set out in the Framework Agreement in which case that supplier may be selected provided the Procuring Officer can demonstrate value for money. Direct Award on frameworks must be first discussed with a relevant Commercial Specialist before proceeding if the value exceeds the threshold.
- (d) Additional suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:
 - (i) the Estimated Value is below the UK Threshold; or
 - (ii) the services tendered are Light-Touch Services to which the full regime of the Public Contracts Regulations 2015 is not considered to apply: or
 - (iii) the services tendered are Healthcare services to which the Health Care Services (Provider Selection Regime) Regulations 2023 apply:
 - (iv) and in whichever case ((i) (ii) or (iii) above) provided that the Invitation to Tender states:

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- (aa) that new suppliers may be added to the Framework Agreement; and
 - (bb) how many suppliers can apply to be added to the Framework Agreement; and
 - (cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.
- (e) Each use of a Framework agreement either by call off or direct award must be included on the Contracts Register within 30 days of award.

RULE 29***Dynamic Purchasing Systems***

Procuring Officers must only establish Dynamic Purchasing Systems with the prior written approval of a Senior Commercial Specialist and the Director of Corporate Resources and in accordance with the requirements of the Public Contracts Regulations 2015 and these Rules where appropriate.

CONTRACT AMENDMENTS**RULE 30*****Contract Modifications and Extensions***

What is the Modification?	What approval is required?
<p>30a)</p> <p>Where the contract modification meets all the following:</p> <ul style="list-style-type: none"> i) Modification value is below £179,087 (ex VAT) – this value shall be net cumulative of all modifications to the contract. ii) Modification value is within 10% greater or lesser of the original contract value. iii) Does not alter the overall nature of the original contract. <p>or</p> <p>Where the contract modification meets all the following and was procured under the provider selection regime:</p> <ul style="list-style-type: none"> i) Modification value is below £500,000 (ex VAT) – this value 	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification</p> <p>All approvals need authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist. In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the modification is equal to or exceeds £100,000 the modification must be approved

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<p>shall be net cumulative of all modifications to the contract.</p> <p>ii) Modification is 25% greater or lesser the original contract value.</p> <p>iii) Does not alter the overall nature of the original contract.</p>	<p>by the Assistant Director for Finance.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30(b) Where the contract modification meets all the following:</p> <p>i) Modification value is below £25,000</p> <p>ii) Modification value is above 10% greater or lesser the original contract value.</p> <p>iii) The overall contract value including this modification does not exceed £179,087 (ex VAT).</p> <p>iv) Does not alter the overall nature of the original contract.</p>	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30c) All other contract modifications.</p>	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification.</p> <p>Modification approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist and authorisation from the Director of Corporate Resources and the Director of Law and Governance.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the</p>

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	Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.
What is the Extension?	What approval is required?
<p>30d) Where a Contract Extension has been provided for both in the Initial Procurement Documents and in the Contract in clear and precise terms.</p> <p>Or</p> <p>Where the Contract Extension</p> <ol style="list-style-type: none"> i) Value is below £179,087 (ex VAT) – this value shall be net cumulative of all extensions to this contract. ii) Value is within 10% up of the original contract value. iii) Does not alter the overall nature of the original contract. 	<p>Extension form must be completed outlining the full reasons for the request to extend the contract.</p> <p>Approval needs authorisation from the Chief Officer in consultation with the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any extension being agreed the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30e) All other Contract Extensions</p>	<p>Extension form must be completed outlining the full reasons for the request and the need for an extension to the contract.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist and authorisation from the Director of Corporate Resources and the Director of Law and Governance.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any extension being agreed the Contract the Procuring Officer must</p>

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	ensure that sufficient additional budget provision has been approved by the budget holder.
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RULE 31***Novation of Existing Contracts***

The novation of a Contract to a new Person irrespective of value requires the prior written approval of the Director of Corporate Resources in consultation with the Director of Law and Governance (or the Director of ESPO in the case of ESPO).

RULE 32***Early Termination of Contracts***

Unless a provision for early termination is clearly stated in the Contract, Procuring Officers shall seek advice from the Director of Law and Governance where it is intended to terminate a contract early. Where the Total Value of the Contract is equal to £179,087 or more the prior written approval of the Director of Corporate Resources shall also be obtained.

MISCELLANEOUS PROVISIONS**RULE 33*****Application of these Rules to ESPO***

- (a) Where acting solely on behalf of the Council ESPO must comply with these Rules where applicable.
- (b) In cases where ESPO is acting on behalf of the Council:
 - (i) ESPO is authorised to act as agent of the Council in place of the appropriate Chief Officer or Procuring Officer for the purposes of Rules 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27 and 28 and these Rules shall be construed accordingly.
 - (ii) ESPO is authorised to act as agent of the Chief Executive for the purposes of Rules 18, 19 and 20.
 - (iii) For the avoidance of doubt, decisions under Rule 23 shall remain the responsibility of Procuring Officers who may receive advice from ESPO.

Part 4G Contract Procedure Rules**RULE 34*****Document Retention***

- (a) All Contract records, that might be required in court proceedings must be retained for at least six years and any under seal for at least twelve years from expiry of the Contract.
- (b) Where the Contract is externally funded any contingent liabilities and/or grant conditions must be taken account of by the length of the retention period.

RULE 35***Supervision of Contracts by Third Parties***

- (a) The Procuring Officer shall ensure that it is a condition of any contract between the Council and any Person (not being an Officer of the Council) who is involved in a Procurement Exercise or the management of a contract on behalf of the Council that in relation to that contract he must comply with the requirements of these Rules and other reasonable requirements of the Council.
- (b) Such Person must:
 - (i) at any time during the carrying out of the Contract produce to the appropriate Chief Officer or his representative, Commercial Specialist or in the case of ESPO an officer with delegated authority or Council Auditor on request all records maintained by him in relation to the Contract; and
 - (ii) on completion of the Contract transmit all records to the appropriate Chief Officer, Commercial Specialist or in the case of ESPO an officer with delegated authority.

RULE 36***Nominated Sub-Contractors and Suppliers***

- (a) Where a sub-contractor or supplier is to be nominated by the Council to a main contractor, the provisions of these Rules shall have effect.
- (b) The terms of an Invitation to Tender under Rule 18 must require an undertaking by the Tenderer that, if selected, they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work, supplies or services included in the sub-contract.

SCHEDULE 1

Interpretation

1. “appropriate Chief Officer” means the Chief Officer responsible for the function to which the Contract relates except that, where another Chief Officer is responsible for the letting of the Contract, it shall mean that Chief Officer in consultation with the Chief Officer on whose behalf the Contract is to be let. Refer to the following for the list of Chief Officers: <https://www.leicestershire.gov.uk/about-the-council/how-the-council-works/leader-and-cabinet/chief-officers-of-the-council> (In the case of ESPO the Chief Officer refers to the Director of ESPO).
2. “Best Value” means the duty of the Council to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
3. “Chief Finance Officer” is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. The functions of the Chief Finance Officer are set out in Article 12 of Part 2 of the Council’s Constitution.
4. “Commercial Specialist” means an Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. If there is no Commercial Specialist for the goods, services and/or works being procured then the Senior Commercial Specialists or Procurement and Commissioning Support Manager will adopt this role.
5. “Concession Contract” means a works concession Contract or services concession Contract for pecuniary interest concluded in writing by means of which the Council entrusts the execution of works or the provision and the management of services (other than the execution of works) to one or more economic operators, the consideration for which consists either solely in the right to exploit the works or the services that are the subject of the Contract or in that right together with payment; and that meets the requirements of Regulation 3(4) of the Concession Contracts Regulations 2016 (CCR 2016).

Regulation 3(4) of the CCR 2016 further defines the necessary requirements of the arrangement for the purposes of the regime, which are :

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- (i) the award of the Contract must transfer to the concessionaire the operating risk in exploiting the works or services encompassing demand or supply risk or both; and
 - (ii) the part of the risk transferred to the concessionaire involves real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible.
6. "Concession Contracts Regulations 2016" means the Concession Contracts Regulations 2016 as amended, consolidated, extended, re-enacted or replaced. These Regulations implement Directive 2014/23/EU of the European Parliament and of the Council on Public Procurement.
 7. "Contract" means a binding agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.
 8. "Contract Extension" means an extension to the duration of the Contract, but not including any alteration to the scope of the Contract.
 9. "Contracts Finder" means the web-based portal provided for the purposes of Part 4 of the Public Contracts Regulations 2015.
 10. "Contract Opportunity Publication" is the means by which a Procurement Exercise is advertised, and includes (where appropriate) the 'Contract Notice' and Contracts Finder as defined in the Public Contracts Regulations 2015.
 11. "Contract Manager" means an Officer responsible for the administration and management of the Contract.
 12. "Contract Modification" means an alteration to the scope of the contract.
 13. "Contracts Register" means a register of (current) contracts, commissioned activity, purchase orders, framework agreements and any other legally enforceable agreement with a value that exceeds £25,000 entered into by the Council and held on the Council's electronic tendering system.
 14. "Corporate Contract" means any Contract or Framework Agreement or other arrangement approved for use in sourcing a particular requirement in consultation with the relevant Commercial Specialist, and put in place by the Council itself, ESPO, or any other public sector organisation (including other Local Authorities) or consortium in which

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the Council is entitled to participate and which, where necessary, has been awarded in compliance with EU Retained law.

15. "Council" means Leicestershire County Council.
16. "Direct Employee: a person who works as an employee of the Council and is paid a salary by it, rather than being employed through an agency or other third party."
17. "Dynamic Purchasing System" means a completely electronic process, which has a limited duration, for making commonly used purchases, as more particularly defined and described in the Public Contract Regulations 2015.
18. "Electronic Tendering System" means an electronic tendering system approved in accordance with Rule 5 (h) (ii).
19. "ESPO" means the Eastern Shires Purchasing Organisation being a local authority purchasing and distribution consortium of which the Council is a joint member authority.
20. "Estimated Value" means the value as estimated under Rule 10.
21. "E-Tender" means a Tender that has been submitted using an Electronic Tendering System.
22. "EU Retained law" is where some EU law was carried over into UK law after the UK exit from the European Union on the 31st December 2020. The means by which this was done was via the European Union (Withdrawal Act 2018.) The retained EU law includes i) domestic law which was implemented or related to former EU obligations; ii) EU Legislation which was applicable in the UK without implementing legislation; and iii) other rights and principles in EU law (such as EU treaties) that has direct effect in the UK.
23. "Executive" means the executive or committee determined in accordance with the Council's constitution.
24. "Formal Tender Process" is a process following the requirements of Open Tendering, Restricted Tendering, Standing List, Negotiated Procedure, Competitive procedure with Negotiation, Competitive Dialogue or Innovation Partnership Procedure. And Formal Tender shall be construed accordingly.
25. "Framework Agreement" is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. The

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Framework Agreement may, itself, be a contract to which the EU Retained procurement directives and Public Contracts Regulations 2015 or the Health Care Services (Provider Selection Regime) Regulations 2023 apply.

26. "Further Competition" is undertaken where not all the terms of a proposed contract are laid down in a Framework Agreement. It involves re-opening competition between the economic operators which are parties to the Framework Agreement and which are capable of performing the proposed contract, on the basis of the same or, if necessary, more precisely formulated terms, and where appropriate other terms referred to in the contract documents based on the Framework Agreement.
27. "Invitation to Tender" means the document(s) containing the specification, proposed terms and conditions and other appropriate information as issued to the Tenderers to solicit Formal Tenders.
28. "Irregular Tender" means a Tender that does not fully comply with the instructions given in the Invitation to Tender.
29. "Life-Cycle Costing" means all or part of the following costs over the life-cycle of a product, service or works, to the extent that they are relevant:
 - (a) Costs of acquisition;
 - (b) Costs of use, such as consumption of energy and other resources;
 - (c) Maintenance costs;
 - (d) End of life costs, such as collection and recycling costs;
 - (e) Costs imputed to the environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified. These costs may include the costs of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.
30. "Light-Touch Services" means those services referred to in regulation 74 and Schedule 3 of the Public Contracts Regulations 2015.
31. "Officer" means an employee of the Council.
32. "Person" includes a partnership, body corporate or unincorporated association.
34. "Post Tender Negotiations" means the ability to negotiate with a Tenderer after a Tender has been opened and evaluated in accordance with the published evaluation criteria for the purposes of securing an

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improvement in the delivery of the contract including but not limited to improvements in price.

35. "Procurement Exercise" means any process by which goods, services and/or works are to be procured including but not limited to Request for Quotations and Formal Tender Processes. For the purpose of these Rules a contract for a Concession, a contract via a Framework Agreement/Dynamic Purchasing system shall be treated as a Procurement Exercise.
36. "Procuring Officer" means any Officer, acting under the delegated powers of the appropriate Chief Officer, who is responsible for the procurement of works, goods and/or services.
37. "Provider Selection Regime" means a set of rules for procuring health care services in England by organisations termed relevant authorities. The Provider Selection Regime (PSR) came into force on 1 January 2024.
38. "Public Contracts Regulations 2015" means the Public Contracts Regulations 2015 as amended, consolidated, extended, re-enacted or replaced. These Regulations implement Statutory Instrument 2015 No. 102 and of the Council on Public Procurement.
39. "Quotation" means an offer to sell works, goods and/or services at a stated price under specified conditions. A Quotation may or may not be written.
40. "Request for Quotation" ("RFQ") means a document or documents containing the specification, and proposed terms and conditions issued to potential suppliers to solicit written Quotations.
41. "Standard Terms and Conditions" means standard contractual terms used by Leicestershire County Council, including those attached to procurement orders or orders generated by 'line of business' systems, those included in Request for Quotation templates, and standard industry terms.
42. "Standard Selection questionnaire" means a questionnaire that complies with the Crown Commercial Service statutory guidance relating to Standard Selection Questionnaires.
43. "Standing List" means a list of Persons which has been established in accordance with Rule 27.

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44. "Suitability Assessment Question" means a question which relates to the subject matter of the procurement and is proportionate and which the Council requires for assessing the Tenderers suitability.
45. "The Council's Strategic Plan 2022-26" means the strategy document that explains how the Council's commissioning and procurement activity will be used between 2018 and 2022 to improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.
46. "Tender" means the formal offer from a Tenderer, which is capable of acceptance by the Council, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements as well as information about the Tenderer. A written Quotation is also a Tender. The term "Tender" also includes an E-Tender except where the context implies otherwise.
47. "Tenderer" or "Tenderers" means the Person or Persons invited to participate in a Procurement Exercise.
48. "Total Value" means the value of a contract which has been calculated in accordance with Rule 10(b) (excluding Rule 10(b)(vii)) reading where appropriate Total Value for Estimated Value.
49. "UK e-notification service" known as "FTS" (Find a Tender Service) is defined in the Public Contracts Regulations 2015 (as amended).
50. "UK Threshold" means the respective threshold for Services, Supplies, Works or Light-Touch Services contracts referred to in the Public Contract Regulations 2015
51. "In writing" or "written" for the purpose of interpreting these Rules includes transmission by any electronic means which have been approved by the Director of Law and Governance in consultation with the Director of Corporate Resources.
52. Words imparting the masculine include the feminine gender.
53. "Rule(s)" means these Contract Procedure rules as may be amended from time to time.

[end of Contract Procedure Rules]

Part 4 H

Officer Employment Procedure Rules

Part 4H – Officer Employment Procedure Rules**RULE 1**
Interpretation

In these Rules –

‘The 1989 Act’ means the Local Government and Housing Act 1989;

‘The 2000 Act’ means the Local Government Act 2000;

‘Disciplinary Action’ has the same meaning as in the Local Authorities (Standing Orders) Regulations 2001;

‘The Executive’ and ‘The Leader’ have the same meanings as in Part II of the 2000 Act; and

‘Member of staff’ means a person appointed to or holding a paid office or employment under the County Council.

RULE 2
Responsibility for Appointing, Dismissing and Disciplining Employees

- (1) Subject to paragraph (2) below and to Rule 10 below, the power to appoint, dismiss and take disciplinary action against a member of staff of the County Council must be discharged, on behalf of the County Council, by the Chief Executive (as the officer designated under Section 4(1) of the 1989 Act as the Head of Paid Service) or by an officer nominated by him.
- (2) The provisions of paragraph (1) above shall not apply to the appointment or dismissal of, or disciplinary action against –
 - (a) the Chief Executive as the officer designated as the Head of Paid Service;
 - (b) the Director of Children and Family Services, the Director of Adults and Communities and the Chief Finance Officer as statutory chief officers within the meaning of Section 2(6) of the 1989 Act;
 - (c) any other Chief Officer as a non-statutory chief officer within the meaning of Section 2(7) of the 1989 Act;
 - (d) a formally designated Deputy Chief Officer or in the absence of such a post any member of a departmental management team

as a deputy chief officer within the meaning of Section 2(8) of the 1989 Act; or

- (e) an assistant for a political group appointed under Section 9 of the 1989 Act.

RULE 3
Head of Paid Service

Where a committee, sub-committee or officer is discharging, on behalf of the County Council, the function of the appointment of an officer designated as the Head of Paid Service, the full County Council must approve that appointment before an offer of appointment is made to that person.

RULE 4
Composition of Member Body

Where a committee or subcommittee of the County Council is discharging, on behalf of the County Council, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (a) (b) (c) or (d) of Rule 2(2) above, at least one member of the Executive must be a member of that committee or subcommittee.

RULE 5
Procedure Regarding Appointments

- (1) In this Rule, 'appointor' means, in relation to the appointment of a person as an officer of the County Council, the full County Council, or where a committee, subcommittee or officer is discharging the function of appointment on behalf of the County Council, that committee, subcommittee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraphs (a), (b), (c) or (d) of Rule 2(2) above must not be made by the appointor until:
 - (a) the appointor has notified the Chief Executive of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the Chief Executive has notified every member of the Executive of –
 - (i) the name of the person to whom the appointor wishes to make the offer;

- (ii) any other particulars relevant to the appointment which the appointor has notified to the Chief Executive; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Chief Executive; and
- (c) either –
- (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii) above, notified the appointor that neither he nor any other member of the Executive has any objection to the making of the offer;
 - (ii) the Chief Executive has notified the appointor that no objection was received by him within that period from the Leader; or
 - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

RULE 6

Appointment of Chief Officers

- (1) Where the County Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, the County Council shall –
- (a) draw up a statement specifying –
 - (i) the duties of the officer concerned, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement referred to in sub-paragraph (a) above to be sent to any person on request.
- (2) Where a post has been advertised as provided in sub-paragraph (1) (b) above, the County Council shall –

- (a) interview all qualified applicants for the post, or
 - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
- (3) Where no qualified person has applied, the County Council shall make further arrangements for advertisement in accordance with sub-paragraph (1) (b) above.
- (4) The steps to be taken under paragraphs (1) or (2) above may be taken by a committee, subcommittee or chief officer of the County Council. Every appointment of a chief officer shall be made by the County Council or by a committee or subcommittee of the County Council.
- (5) For the purposes of this Rule, 'chief officer' includes the post of Chief Executive.

RULE 7
Recruitment and Appointment

- (1) Declarations:
- (a) The County 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 county councillor or officer of the County Council; or of the partner of such persons.
 - (b) No candidate so related to a county councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- (2) Seeking support for appointment:
- (a) The County Council will disqualify any applicant who directly or indirectly seeks the support of any county councillor for any appointment with the County Council. The content of this paragraph will be included in any recruitment information.
 - (b) No county councillor will seek support for any person for any appointment with the County Council.

[Note: A request for, and the provision of, a formal reference will not constitute seeking support for the purposes of this Rule.]

RULE 8***Appointment of Assistants for Political Groups***

- (1) A political assistant appointed under Section 9 of the 1989 Act may only provide assistance to members of a political group in order to help them discharge their functions as members of the County Council.
- (2) The County Council will allocate a political assistant to each political group which qualifies for such a post under Section 9 of the 1989 Act, and the appointment of any person as a political assistant shall not take effect until such an allocation has been made.
- (3) The County Council shall not allocate a political assistant to any group which does not qualify for such a post, and shall not allocate more than one post to any one political group.
- (4) Unless the political group to which a post is allocated indicate that they are content that the terms and conditions of that post shall be less favourable than they would otherwise be, then those for each post allocated to political groups shall be the same.
- (5) Nothing in this Rule shall require a political group to make any appointment to a post allocated to them. However, where a group wishes an appointment to be made, and the post is vacant, the Chief Executive shall, in accordance with the wishes of that political group –
 - (i) place an advertisement on the County Council's website giving details of the post together with up to two advertisements in such newspapers or periodicals designated by that group;
 - (ii) make arrangements for meetings of such members of that group as the group nominate for the purpose of choosing a shortlist of and interviewing candidates for the post; and
 - (iii) appoint such person as that group shall indicate, on the terms and conditions as approved by the County Council.
- (6) A political assistant who fails to fulfil the requirements of his employment contract because of incapacity through ill health, repeated misconduct or gross misconduct shall be liable to dismissal in accordance with appropriate procedures. The political group will follow advice from the Head of Human Resources on the procedure to be used.

RULE 9***Procedure Regarding Dismissals***

- (1) In this paragraph, 'dismissor' means, in relation to the dismissal of an officer of the County Council, the full County Council or, where a

committee, subcommittee or officer is discharging the function of dismissal on behalf of the County Council, that committee, subcommittee or officer, as the case may be.

- (2) Notice of the dismissal of an officer referred to in sub-paragraphs (a) (b) (c) or (d) of Rule 2 (2) above must not be given by the dismissor until –
- (a) the dismissor has notified the Chief Executive of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the Chief Executive has notified every member of the Executive of –
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Chief Executive; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the Chief Executive; and
 - (c) either –
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii) above, notified the dismissor that neither he nor any other member of the Executive has any objection to the dismissal;
 - (ii) the Chief Executive has notified the dismissor that no objection was received by him within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

RULE 10

The Role of Members in Disciplinary Action

Nothing in Rule 2 above shall prevent a member of the County Council (or other person) from –

- (a) serving as a member of any committee or subcommittee established by the County Council to consider an appeal by a member of staff of the

County Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

- (b) acting as a witness (if necessary) in any investigation or inquiry into alleged misconduct by an officer.

RULE 11

Disciplinary Action against Certain Employees

- (1) No action may be taken by the Employment Committee - except for suspension – relating to the dismissal of either the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer other than in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) and as set out below.
- (2) In respect of the proposed dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Employment Committee may appoint an Independent Investigating Officer (IIO) to examine the circumstances of the case and to advise the Committee on any action to be taken.
- (3) Where consideration is being given to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer a Panel (comprising an Advisory Committee established under section 102(4) of the Local Government Act 1972) will be set up which shall consist of three Independent Persons and which shall meet at least 20 working days before any meeting of the County Council at which any proposed dismissal is to be considered.
- (4) The Employment Committee will, having considered the advice of any Independent Investigating Officer appointed, make a recommendation to the Council for consideration, including any terms for cessation of employment.
- (5) Where a committee, subcommittee or officer is discharging, on behalf of the County Council, the function of the dismissal of an officer designated as the Head of Paid Service, as the Chief Finance Officer, or as the Monitoring Officer, the full County Council must approve that dismissal before notice is given to that person.
- (6) Any proposal to dismiss the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer may only be taken by the Council following consideration of
 - a. any advice, views or recommendations from the Panel set up under paragraph 3 above.
 - b. the conclusions of any investigation into the proposed dismissal : and
 - c. any representations from the officer concerned.

[end of Officer Employment Procedure Rules]

[Note. The following Procedure, which is set out here for the sake of completeness does not form part of the Officer Employment Procedure Rules.]

PROCEDURE FOR THE APPOINTMENT OF THE HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

This procedure sets out the arrangements for the appointment of the Head of Paid Service, Chief Officers and Deputy Chief Officers, in order to comply with Part 4H of the Constitution of the County Council – Officer Employment Procedure Rules – and the Local Authorities (Standing Orders) (England) Regulations 2001.

[Note – “Deputy Chief Officers” is defined as officers who in respect of all or most of their duties are required to report directly or are directly accountable to one or more of the statutory or non-statutory Chief Officers (excluding secretarial/ administrative/other support staff). For the purpose of this procedure, unless there is a formally designated Deputy Chief Officer, this is taken to mean all members of a Departmental Management Team.]

Head of Paid Service

- 1 The appointment has to be made by the full County Council following a recommendation from an Appointment Committee.*
- 2 The selection process up to and including the making of a recommendation is carried out by an Appointment Committee established for that purpose by the Council. The Chief Executive has delegated power to appoint such a committee where it is not practical to wait until the next meeting of the Council. At least one member of the Cabinet must be a member of the Appointment Committee.*
- 3 When the Appointment Committee has made its recommendation, it must immediately notify the Head of Human Resources of the name of the recommended appointee and any other particulars which they consider are relevant to the appointment.*
- 4 The Head of Human Resources will notify every member of the Cabinet who was not a member of the Appointment Committee of the name of the recommended appointee and any other particulars which the Committee considers are relevant. Notification may be by telephone, fax or email. The Head of Human Resources will give them 24 hours within which to indicate whether they have any objection to the recommended appointee.*

- 5 *If an objection is made, the Head of Human Resources will advise the Leader immediately. The Leader will need to speak to the objector to clarify the nature of the objection. If the Leader does not consider the objection to be well-founded he/she may seek to persuade him/her to withdraw his/her objection, but cannot insist on that. The Leader will then advise the Head of Human Resources of the outcome of these discussions.*
- 6 *The recommendation can be taken forward when the time period has passed and either no objections have been lodged, any objections have been withdrawn or the Appointment Committee is satisfied that any remaining objection is not material or well-founded.*
- 7 *If the Appointment Committee is satisfied that an objection received within the 24-hour period is material and well-founded the recommendation cannot be made and the Appointment Committee would have to decide what action to take. This could include considering another recommendation or restarting the process. Note – the recommended appointee would be entitled to see the grounds of objection if he or she asked*
- 8 *A report containing a recommendation of the Appointment Committee will be prepared and presented to the Council by the Chairman of the Committee for a decision.*

Chief Officers

- 9 *The appointment is made by an Appointment Committee established in accordance with paragraph 2 above. The procedure set out in paragraphs 3-7 above applies. The offer of appointment can be made when the position described in paragraph 6 above has been reached.*

Deputy Chief Officers

- 10 *The appointment is an officer appointment and is made by the Chief Executive or his nominee (the appointer). When the appointer has formed a view who he or she wishes to appoint, the procedure set out in paragraphs 3-7 above will apply, but references to the Appointment Committee should be read as references to the officer responsible for the appointment. The offer of appointment can be made when the position described in paragraph 6 above has been reached.*

[end of Note]

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Part 5 A

Members' Code of Conduct

Part 1 - BACKGROUND TO THIS CODE OF CONDUCT

- 1.1 This section sets out general interpretation and background to the Code of Conduct, including definitions used within the Code, the purpose of the Code, the principles the Code is based on and when the Code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.
- 1.2 All councils are required to have a local Member Code of Conduct.

Definitions

- 1.3 For the purposes of this Code of Conduct, a "member" means a member or co-opted member of Leicestershire County Council ('the Council').
- 1.4 A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who:
- a) is a member of any committee or sub-committee of the Council;
 - or
 - b) is a member of, and represents the Council on, any joint committee or joint subcommittee of the Council;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

Purpose of the Code of Conduct

- 1.5 The purpose of this Code of Conduct is to assist you, as a member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow members, Council officers and the reputation of the Council and local government. It sets out general principles of conduct expected of all members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of member and local government.

General principles of member conduct

- 1.6 Everyone in public office at all levels (i.e. all who serve the public or deliver public services, including ministers, civil servants, members and council officers) should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles, which are set out in Appendix A.
- 1.7 Building on these principles, the following general principles have been developed specifically for the role of a member and these

underpin the obligations in the Code of Conduct that follows.

1.8 In accordance with the public trust placed in you, you should:

- act with integrity and honesty;
- act lawfully;
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of member.

1.9 In undertaking your role you should:

- impartially exercise your responsibilities in the interests of the local community;
- not improperly seek to confer an advantage, or disadvantage, on any person;
- avoid conflicts of interest;
- exercise reasonable care and diligence;
- ensure that public resources are used prudently in accordance with your Council's requirements and in the public interest; and
- uphold high standards of conduct, show leadership at all times and not misuse your position when acting as a member.

Application of the Code of Conduct

1.10 This Code of Conduct applies to you as a member or co-opted member of the Council. It applies as soon as you sign your declaration of acceptance of the office of member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a member.

1.11 This Code of Conduct applies to you when you:

- act in your capacity as a member or co-opted member of the Council; and
- conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).

1.12 Where you act as a representative of the Council:

- on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

- 1.13 The Code applies to all forms of communication and interaction, including:
- at face-to-face meetings;
 - at online or telephone meetings;
 - in written communication;
 - in verbal communication;
 - in non-verbal communication;
 - in electronic and social media communication, posts, statements and comments.
- 1.14 Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct which you are unsure of.

Part 2 - THE CODE OF CONDUCT

Standards of member conduct

- 2.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a member. Should your conduct be perceived to fall short of these standards or the Nolan Principles, a complaint may be made against you, which may result in action being taken.
- 2.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

Respect

- 2.3 **As a member:**
- 2.3.1 I will treat other members and members of the public with respect.**
- 2.3.2 I will treat council officers, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.**
- 2.4 Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

- 2.5 In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in members.
- 2.6 In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and notify them to the Council, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under the Member Code of Conduct, and council officers where concerns should be raised in line with the council's member-officer protocol.

Bullying, harassment and discrimination

2.7 **As a member:**

2.7.1 I will not bully any person.

2.7.2 I will not harass any person.

2.7.3 I will promote equalities and will not discriminate unlawfully against any person.

- 2.8 The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.
- 2.9 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.
- 2.10 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 2.11 The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

Impartiality of officers of the Council

- 2.12 **As a member I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.**
- 2.13 Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and access to information2.14 **As a member:****2.14.1 I will not disclose information:**

- a. **given to me in confidence by anyone;**
- b. **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
 - i. **I have received the consent of a person authorised to give it;**
 - ii. **I am required by law to do so;**
 - iii. **The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. **The disclosure is:**
 1. **reasonable and in the public interest; and**
 2. **made in good faith and in compliance with the reasonable requirements of the Council; and**
 3. **I have consulted the Monitoring Officer prior to its release.**

2.14.2 I will not improperly use knowledge gained solely as a result of my role as a member for the advancement of myself, my friends, my family members, my employer or my business interests.

2.14.3 I will not prevent anyone from getting information that they are entitled to by law.

- 2.15 Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in

certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Disrepute

- 2.16 **As a member I will not bring my role or the Council into disrepute or conduct myself in a manner which could reasonably be regarded as bringing my role or the Council into disrepute.**
- 2.17 As a member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other members and/or the Council and may lower the public's confidence in your or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.
- 2.18 You are able to hold the Council and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

Use of position

- 2.19 **As a member:**
- 2.19.1 I will not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**
- 2.19.2 I will not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.**
- 2.20 Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.
- 2.21 As a member you need to be able to act impartially in the exercise of your responsibilities and ensure that you make decisions in the interests of the local community. You should therefore avoid any financial or other obligations to outside individuals or organisations whose influence may prevent you from acting impartially.

Use of Council resources and facilities**2.22 As a member:****2.22.1 I will not misuse Council resources.****2.22.2 I will, when using the resources of the Council or authorising their use by others:**

- a. act in accordance with the Council's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.

2.23 You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a member. Examples include:

- office support;
- stationery;
- equipment such as phones, iPads, dongles computers etc.
- transport;
- access and use of Council buildings and rooms.

2.24 These are given to you to help you carry out your role as a member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

Making decisions**2.24 As a member:**

2.24.1 When reaching decisions on any matter I will have regard to any relevant advice provided to me by officers and professional third parties.

2.24.2 I will give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

2.24.3 I will make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit.

2.24.4 I will be as open as possible about my decisions and actions and the decisions and actions of the Council and

will be prepared to give reasons for those decisions and actions, notwithstanding my other obligations under this Code.

- 2.25 To assist members in acting lawfully, officers may give advice from time to time. It is important that as a member you have due regard to any such advice given and consider it fully, even if (for good reason) you may choose not to follow that advice.
- 2.26 In making any decisions, giving reasons helps instil public confidence in the role of the member and can be a legal requirement in certain situations. You should ensure that you always give reasons in accordance with any specific requirements and having regard to the benefits of transparency generally.
- 2.27 As a member you must act impartially and not improperly seek to confer an advantage, or disadvantage, on any person. It is therefore important that when you are making decisions that involve choosing one party over another, that you do so based on independent merit. You should be open and transparent about the decisions that you have made and the actions of the Council.

Complying with the Code of Conduct

2.28 **As a Member:**

- 2.28.1 I will undertake Code of Conduct training provided by my Council.**
- 2.28.2 I will cooperate with any Code of Conduct investigation and/or determination.**
- 2.28.3 I will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 2.28.4 I will comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**
- 2.29 It is extremely important for you as a member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting your reputation and the reputation of the Council

Interests

- 2.30 **As a member I will register and disclose my interests in accordance with the provisions set out in Appendix B.**
- 2.31 Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Council.
- 2.32 You need to register your interests so that the public, Council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.
- 2.33 You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix B, is a criminal offence under the Localism Act 2011.
- 2.34 The provisions of paragraph 2.30 and Appendix B shall be applied in such a manner as to recognise that this Code of Conduct should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision-making at one local authority will not by itself normally prevent you from taking part in discussion and decision-making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to an interest which might affect your participation in discussion and decision-making in exceptional circumstances.
- 2.35 Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.

Gifts and hospitality

- 2.36 **As a member:**
- 2.36.1 I will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or**

substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

2.36.2 I will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

2.36.3 I will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.

2.37 In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a member. If you are unsure, do contact the Monitoring Officer for guidance.

Dispensations

2.37 **As a member:**

2.38.1 I may request a dispensation from the Proper Officer for one meeting only.

2.38.2 I must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.

2.38.3 I must make my request 5 days prior to the meeting at which the Dispensation is required.

2.38.4 If I wish to make a further request for dispensation, this must be made to the Relevant Officer/Committee.

2.38.5 I will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.

2.39 Appendix B sets out the situations where a member's interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable

grounds to allow a member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

Appendix A

The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B

Interests

1. Definitions

“**Disclosable Pecuniary Interest**” means any interest described as such in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement,

	<p>servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the member's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the member's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>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 member, or his/ her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

- * 'director' includes a member of the committee of management of an industrial and provident society.
- * 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

"Other Registerable Interest" is a personal interest in any business of your authority which relates to or is likely to affect:

- a) any body of which you are a member or are in general control or management and to which you are nominated or appointed by your authority; or
- b) any body:
 - (i) exercising functions of a public nature;
 - (ii) any body directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

of which you are a member or in a position of general control or management.

"Registrable Interests" are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

"Non-Registrable Interests" are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A **"Dispensation"** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 2.37 of the Code of the Conduct and this Appendix B.

A **"Sensitive Interest"** is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.2 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest. In such circumstances you just have to disclose that you have an interest.

A matter **"directly relates"** to one of your interests where the matter is directly about that interest. For example the matter being discussed is an application about a

particular property in which you or somebody associated with you has a financial interest.

A matter “**affects**” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

2. Registering Interests

- 2.1. Within 28 days of becoming a member or co-opted member or your re-election or re-appointment to office you must register with the Monitoring Officer any Disclosable Pecuniary Interests and any Other Registerable Interests.
- 2.2. Where you have a Sensitive Interest you must notify the Monitoring Officer with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 2.3. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

3.1. Disclosable Pecuniary Interests

Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests subject to paragraph 2.34:

- a. you must disclose the interest;
- b. not participate in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.2. Other Registerable Interests

Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests subject to paragraph 2.34:

- a. you must disclose the interest;
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.3. Non-Registerable Interests

Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

- a. you must disclose the interest;
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.4 Where a matter arises at a meeting which does not directly relate to but **affects**:

- a. a financial interest or the well-being of yourself or of a friend, relative or close associate; or
- b. a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests;

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.5 and 3.6 should be applied.

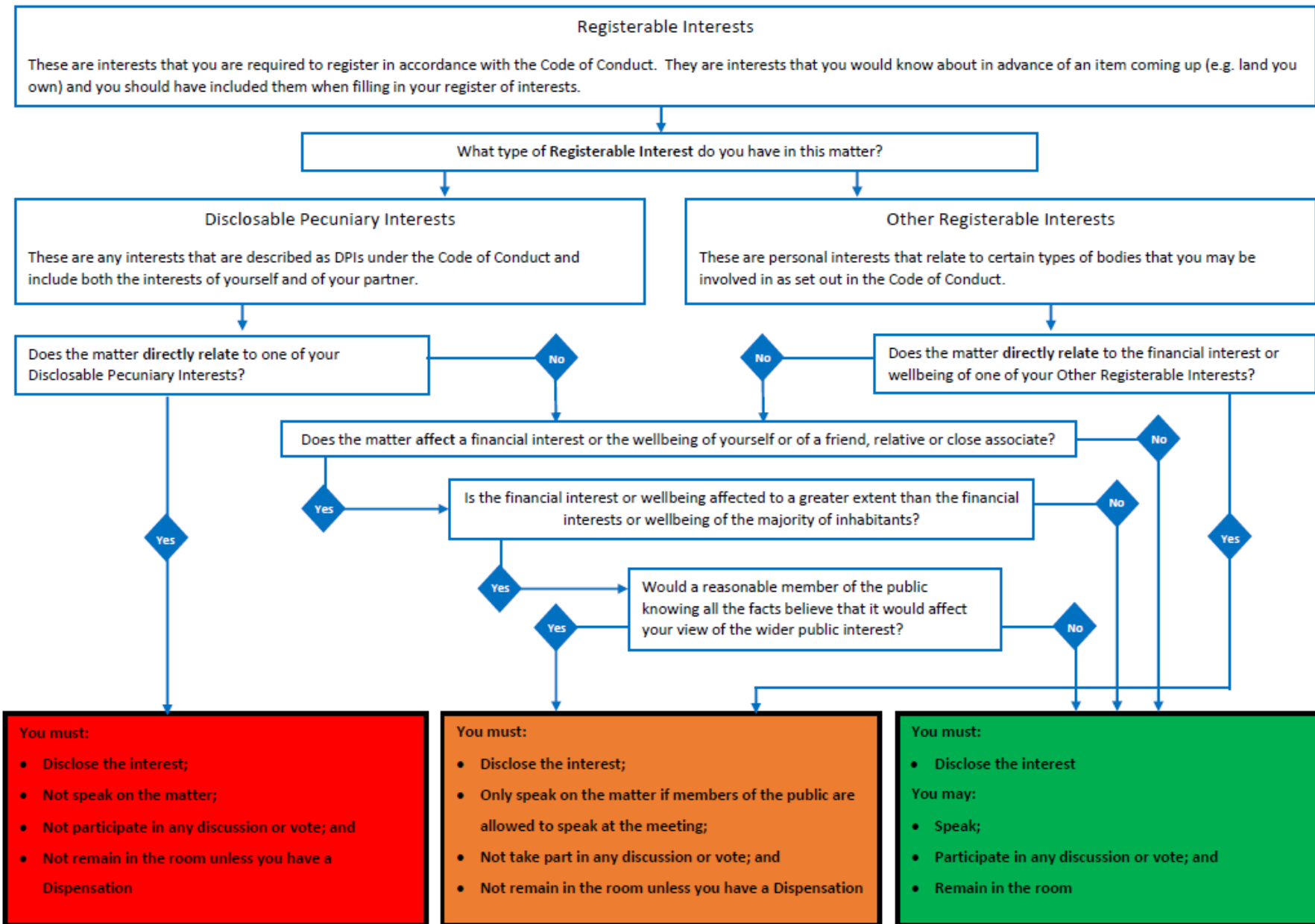
3.5 Where a matter under paragraph 3.4 **affects** the financial interest or well-being or body:

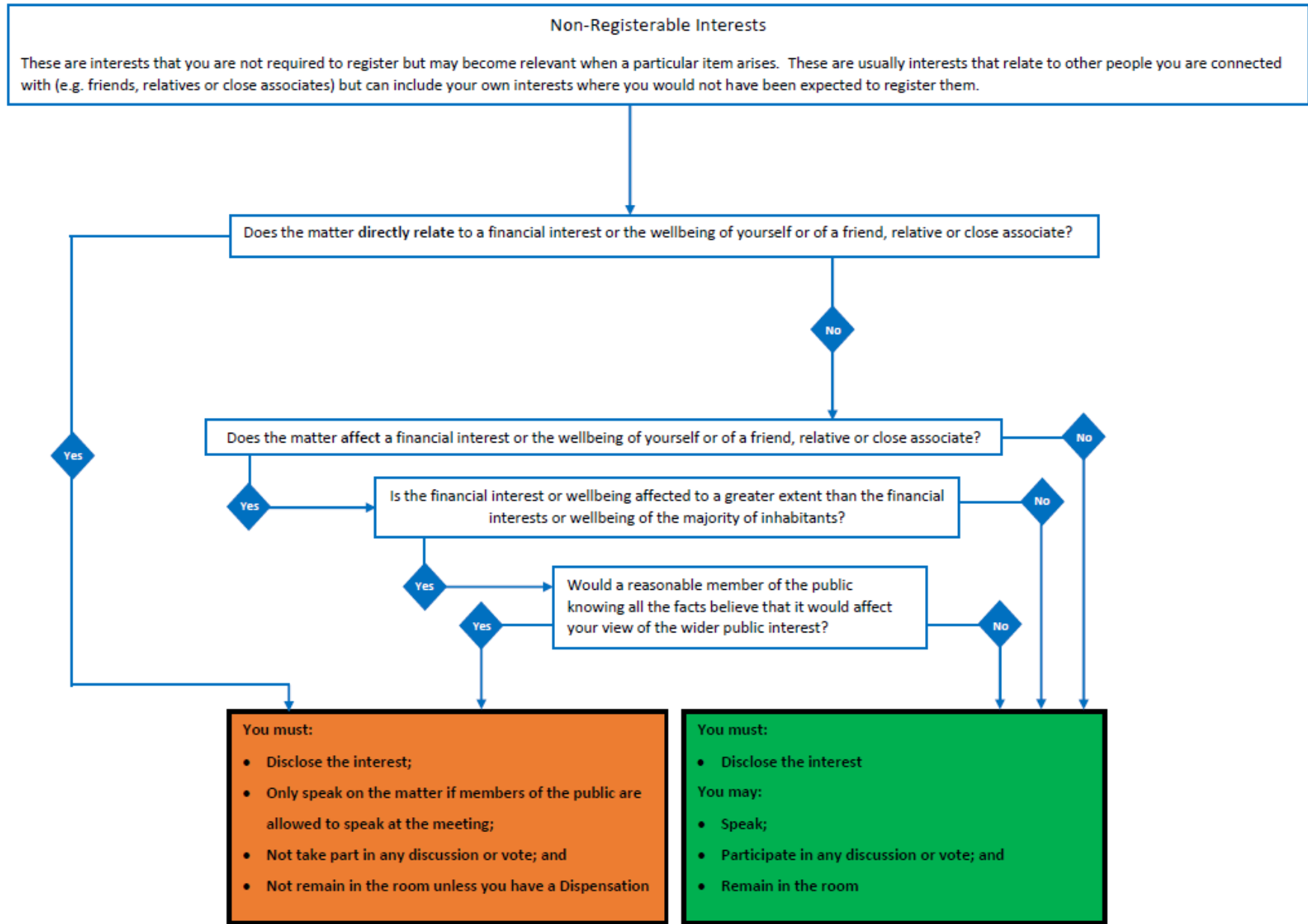
- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a Dispensation.

- 3.6 Where a matter under paragraph 3.4 does not affect the financial interest or well-being or body:
- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or
 - b. a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest;

you may remain in the room, speak if you wish to and take part in any discussion or vote on the matter, provided you have disclosed your interest under paragraph 3.4.





Appendix C

The Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring members to comply with any formal standards investigation and prohibiting trivial or malicious allegations by members.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both members and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish member towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing its Model Code on an annual basis to ensure it is still fit for purpose.

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Part 5A(1)

Members' Planning Code of Good Practice

Part 5A(1) – Members’ Planning Code of Good Practice

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Part 5A (1) - Members' Planning Code of Good Practice

Background

This Planning Code of Good Practice reflects the requirements of the Localism Act 2011 and the County Council's Members' Code of Conduct which is set out in the Constitution.

This Code sets out how councillors can get involved in planning in a fair, impartial, and transparent way.

Definitions of interests referred to below are given in the Members' Code of Conduct, Part 5 of the Constitution.

Introduction

The aim of this Code of Good Practice is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial, or not well founded in any way.

This Code of Good Practice applies to Members at all times when involving themselves in the planning process. This includes both decision-making meetings of the Council when exercising the functions of the Planning Authority (usually at the Development Control and Regulatory Board for development management, referred to here as 'the Board', and at the Cabinet and County Council for development plans) and involvement on less formal occasions, such as at meetings with officers or the public and at consultative meetings. It applies to planning applications, enforcement matters, and policy issues (such as the Minerals and Waste Local Plan).

The key purpose of Planning is to contribute to the achievement of sustainable development, not development at any cost. Planning should ensure that the right development happens in the right place at the right time, benefitting communities and the economy. It plays a critical role in identifying what development is needed and where, what areas need to be protected or enhanced, and in assessing whether proposed development is suitable. It does this by regulating the development and use of land in the public interest.

Your role as a Member of a Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early from the Director of Law and Governance as the County Council's Monitoring Officer or one of their staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first. This must always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of your involvement in planning matters. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of being in breach of the Members' Code of Conduct and, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Interests under the Members' Code of Conduct

- **Do** disclose the existence and nature of your interest at any relevant juncture, including informal meetings or discussions with officers and other Members.
- **Do** disclose your interest at the beginning of the meeting, or as soon as it becomes apparent. It is good practice to declare your interest again at the start of the relevant item, particularly because members of the public may only be attending for that issue and will not have heard the declaration at the beginning.
- **Do** consider the type of interest you may have and act accordingly.

A. Registerable Interests (those you have included in your register of interests in accordance with the Code of Conduct)

If the matter *directly relates* to one of your Registerable Interests you should declare the existence and the nature of the interest before the item is considered, and

- **don't** get involved in the processing of the application;
- **don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority;
- **don't** try to represent local views, get another Member to do so instead;

- **do** withdraw from any meeting prior to consideration of the matter.

If the matter does not *directly relate* to one of your Registerable Interests, then

- **do** consider whether the matter may nonetheless affect your financial interest or wellbeing or that of a friend/relative/close associate;
- **do** carefully consider the extent to which you or your friend/relative/close associate, is affected and whether it might lead to, or could be perceived to lead to, bias on your part;
- **do** be aware that you may attend a Board meeting to make representations, answer questions, or give evidence on the matter provided that public speaking rights also apply;
- **do** ensure that if you decided to make representations on this basis you do not then take part in any discussion or voting on the matter and withdraw from the meeting after you have spoken.

B. Non-Registerable Interests (those not in your register of interests but that may arise with a particular matter)

If the matter directly relates to or affects a financial interest or the wellbeing of yourself or of a friend/relative/close associate (and is not a Registerable Interest) then

- **do** carefully consider the extent to which you or your friend/relative/close associate, is affected and whether it might lead to, or could be perceived to lead to, bias on your part;
- **do** be aware that you may attend a Board meeting to make representations, answer questions, or give evidence on the matter provided that public speaking rights also apply.
- **Do** ask yourself when considering the nature of your interest, whether Registerable or Non-Registerable -

“Is the financial interest or wellbeing of myself or my friend relative/close associate affect to a greater extent than the financial interest or wellbeing of the majority of inhabitants of the ward affected by the decision?”

“Would a reasonable member of the public knowing all the facts believe that this would affect my view of the wider public interest?”

If your answer to either of these questions is “yes” then you must disclose the interest, not take part in discussion or voting on the matter, and leave the meeting during its consideration. As explained above, you may still make representations at the Board meeting provided that public speaking rights apply.

- **Don’t** in any event ever 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 role as a Member. This would include discussing the matter with officers or Members when the public would not have the same opportunity to do so.
- **Do** be aware that whilst you are not prevented from seeking to explain and justify a proposal in which you have an interest to an appropriate officer, you must always declare your interest and the Code places greater limitations on you in representing that proposal than would apply to a member of the public.

3. Predetermination in the Planning Process

Predetermination is also referred to as ‘fettering discretion’. It is not the same as *predisposition*, as explained below.

Predetermination occurs when you are deemed to have made your mind up and will not consider any subsequent information presented. However, you can be *predisposed*, that is, have an initial view on the matter.

As an elected Member you are entitled, and are often expected, to have expressed views on planning issues (*predisposition*). Some Councillors may be elected in part because of their views on such matters. However, if you become involved in the decision making as a member of the Development Control and Regulatory Board then you must be clear that you are prepared to reconsider your position in the light of all the evidence and arguments.

As an elected Member involved in a planning matter:-

- **Don’t** predetermine (fetter your discretion) by approaching the decision with a closed mind.
- **Do** keep at the front of your mind that, particularly if you are predisposed as to how you might decide a particular application, you
 - must keep an open mind at the meeting;
 - must make it clear that you are still willing to listen to all of the evidence and material considerations presented, both the officers’ presentation of the facts and their advice, as well as the arguments from all sides, before deciding how to exercise your vote;

- are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account material considerations and must disregard considerations that are irrelevant to the question and legal context at hand; and
- are to come to a decision after giving what you feel is the right weight to those material considerations.

If you have predetermined the application:

- **Don't** participate in the determination of the matter at the Board because if you did take part in the discussion or vote it would put the County Council at risk, because

Firstly, it would probably constitute maladministration in the opinion of the Local Government Ombudsman.

Secondly, the Council could be at risk of a legal challenge, including Judicial Review, on a number of possible grounds:

 - that there was a danger of bias on your part; or
 - you had predetermined the issue; or
 - there was a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Don't** speak or vote on the proposal.
- **Do** consider whether you should also withdraw from the meeting during the Board's consideration of that application. Although you are not required to, you may prefer to leave to avoid any complaint that your presence may have influenced the decision.
- **Do**, if you decide to stay in the meeting, explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having predetermined the matter, so that this may be recorded in the minutes.

If you have not predetermined a matter but are predisposed as to how you might decide an application,

- **Do** consider yourself able, for example, to:
 - make public statements on an issue, and
 - campaign on a particular issue;

provided you make it clear when you do this that you do not have a closed mind and are amenable to changing your mind in the light of all the information, advice and evidence which will be presented to you at the time of making a decision.

County Council Proposals

- **Do** be aware that if you have been involved in the preparation, submission or advocacy of a planning proposal on behalf of the County Council (i.e. where it is the landowner, developer or applicant) you should avoid participating in the decision-making process as you could be considered to be biased or have predetermined the matter.

Local Members whose electoral division is directly affected by the application

- **Do** consider whether you should take the opportunity to exercise your separate speaking rights as a Local Member (subject to the consent of the Chairman of the Board under Meeting Procedure Rule 33(2)) where you have represented your views or those of local electors to such an extent that you have, or are likely to be seen as having, predetermined the application. Where you do:
 - advise the proper officer and the Chairman that you wish to speak in this capacity before commencement of the meeting;
 - after you have spoken, remove yourself from the member seating area for the duration of that item, or you may prefer to leave the room entirely as suggested above so as to avoid any complaint that your presence may have influenced the decision; and
 - ensure that your actions are recorded.

Members of another body involved in an application

- **Do** be aware that, although the provisions in the Members' Code of Conduct are applied in such a manner as to recognise that the Code should not obstruct a member's service on:
 - another local or public authority; or
 - a body to which you have been appointed or nominated by the Council as its representative;

you must decide in relation to any planning proposal, whether you have been involved to such an extent in the preparation, submission or advocacy of a planning proposal on behalf of such a body as to make your participation in the decision-making process inappropriate. If you have then you should always disclose this Other Registerable Interest and withdraw from the meeting.

Participation in the discussions of consultee bodies by Members of the decision-making body

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (i.e. where you are also a member of the district council as well as being a County Member), provided that:
 - the proposal does not substantially affect the wellbeing or financial standing of the consultee body;
 - you make it clear during the discussion at the consultee body that:
 - (i) you will reserve judgement and the independence to make up your own mind on each separate proposal when it comes before the decision-making body (e.g. the Board) and you hear all of the relevant information;
 - (ii) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Board for consideration; and
 - (iii) you disclose the personal interest regarding your membership of the consultee body or role when the Board comes to consider the proposal.

4. Contact with Applicants, Developers and Members of the Public

- **Do** exercise caution if approached about a planning application by an applicant, developer or member of the public and refer them to Council Officers for planning, procedural or technical advice.
- **Don't** agree to any meeting with applicants, developers or groups of objectors/supporters where it can be avoided. Where you feel that a formal meeting would be useful in clarifying the issues, it is advisable that you do not seek to arrange that meeting yourself as this may be seen as your promoting one point of view or the other. Instead, you may request the Chief Executive (Head of Planning) to organise it. Officers will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Authority to any particular course of action, that the meeting is properly recorded on the application file, and that the record of the meeting is disclosed when the application is considered by the Board.
- **Do** make it clear that you will only be in a position to make a final decision on the application after having heard all the relevant evidence and arguments at the Board.
- **Do** remember to:
 - follow the rules on lobbying (below);

- consider whether it would be prudent in the circumstances to make notes when contacted and whenever an officer is not present; and
- report to the Chief Executive (Head of Planning) any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

Presentations by Applicants/Developers

- **Do** feel able to attend public exhibitions or information events held by applicants/developers, but remember -
 - to ask questions only for the purposes of clarifying your understanding of the proposals;
 - that the presentation is not part of the formal process of debate and determination of any subsequent planning application; this will be carried out by the Board;
 - that a presentation can be a form of lobbying and you must not state how you or other members might vote.
- **Don't** attend private presentations from applicants/developers without requesting an officer to be present.

5. Lobbying

Special attention is needed with regard to lobbying in the planning decision-making process. Lobbying in respect of other aspects of members' work is commonplace and it is an accepted part of the democratic process. However, if such lobbying of members of the Development Control and Regulatory Board oversteps the mark (see examples below) it can lead to the impartiality and integrity of members being called into question and decisions taken being referred to the Local Government Ombudsman and/or being subject to legal challenge.

This can be especially difficult for the Local Member who is also a member of the Board. Therefore, care is required when lobbying of and by a member occurs during consideration of a planning application.

A. Lobbying of Members

- **Do** remember that your overriding duty is to the whole community in Leicestershire, not just the people in your electoral division. You need to make decisions impartially and ensure that you do not favour, or appear to favour, any person, company, group or locality.
- **Don't** declare the way you intend to vote.

- **Do** feel able to express an opinion on the merits prior to your formal consideration of the matter at the Board *but only* if you are very clear that you will only make your mind up at the meeting after hearing the officers' presentation and evidence and arguments on both sides.
- **Do** explain to those attempting to lobby you that, whilst you can listen to what is said, you may be open to accusations of predetermination if you express a firm point of view or an intention to vote one way or another, and you would not then be able to participate in the Board's decision-making.
- **Do** pass on any representations you receive and copy or pass on any lobbying correspondence you receive to the Chief Executive (Head of Planning) at the earliest opportunity.
- **Do** refer any offers made to you of planning gain or to restrict the development through a proposed Section 106 planning obligation or otherwise to the Chief Executive (Head of Planning).
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum and its acceptance is registered in accordance with the Members' Code of Conduct.
- **Do** indicate that you will pass on that person's views to the Chief Executive and, if necessary, to the Board when it considers the matter, but that you cannot commit yourself to vote in any particular way. If you intend to speak at the Board in this way make it clear at the start of the meeting that this is what you are doing so that this can be recorded.
- **Do** remember that, subject to the advice on interests in Part 2 above you may:
 - Listen/receive viewpoints from residents or other interested parties;
 - Make comments to residents, interested parties, other members or appropriate officers, provided they do not consist of or amount to predetermining the issue and you make it clear that you are keeping an open mind;
 - Seek information through appropriate channels; or
 - Be a vehicle for the expression of opinion or speak at the meeting as a Local Member, provided that, if you are also a member of the Board, you explain your actions at the start of the meeting/item and make it clear that, having expressed the opinion or local view, you will make up your own mind having heard all the facts and listened to the debate.

B. Lobbying by Members

- **Don't** lobby fellow members excessively regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of a meeting of the Board. In this context:

Lobbying is asking fellow members to hear or share one's thoughts and concerns on an issue.

Excessive lobbying is applying such pressure on a fellow member that it amounts to an attempt to obtain a commitment as to how they will vote, whether spoken or unspoken. Pressure of this sort is an attempt to predetermine the outcome of the issue (making the decision potentially unlawful) and may also amount to the Member using their position improperly to confer an advantage or disadvantage (breaching paragraph 2.19 of the Members' Code of Conduct).

If you approach a fellow Member regarding a planning application (or indeed any other issue):

- **Do** be mindful that they may feel under undue pressure more readily in the following situations:
 - a senior member lobbying a less senior colleague;
 - a number of members lobbying an individual;
 - persistent lobbying of a member.
- **Do** always be clear that your lobbying is to solicit interest only and you are not seeking a voting commitment.
- **Do** cease to lobby a member if it appears there is a risk that they will feel subject to pressure as to how he/she votes.
- **Don't** discuss how to vote on a planning proposal at a political group meeting or lobby other members to do so. The Local Government Ombudsman has made it clear that the use of political whips to determine planning applications could amount to maladministration.

Membership of Lobby Groups

- **Don't** lead or act as spokesperson of an organisation or group whose *primary purpose* is to lobby or promote or oppose a planning application.
- **Do** feel able to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning applications, e.g. The Victorian Society, The Ramblers, CPRE, or a local civic society. However, if you are a member of such an organisation and this is relevant to a particular application, you should make sure that you declare that interest and consider whether it might lead to, or could be perceived to lead to bias on your part.

Undue or Excessive Lobbying

- **Do** inform the Director of Law and Governance if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality). The Director will ensure that the

appropriate action is taken.

6. Site Visits

- **Do** attend site visits organised by the County Council.
- **Do** ensure that any information which you gained from the site visit is reported back to the Board, so that all members and officers involved in the decision-making have the same information.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on factual matters which are relevant to the site inspection.
- **Do** have regard to the Council's Site Visit Protocol, in particular noting that all discussion during visits should be conducted through the Chairman and limited to the drawing of attention to facts/features associated with the site.
- **Don't** get involved in discussion with the applicant/developer or any members of the public who may be present during the visit. If you are approached advise them that representations should be made in writing, and direct them to or inform the County Council officer accompanying you.
- **Don't** express firm opinions or views or declare the way you intend to vote.
- **Don't** enter a site which is subject to a planning proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit;
 - you have first spoken to the Chief Executive (Head of Planning) about your intention to do so and why (which will be recorded on the planning file); and
 - you can ensure you will comply with these good practice rules on site visits.

7. Pre-Meetings

Briefing meetings for the Chairman and Spokesmen of the Board are held to facilitate the smooth running of the Board meetings. Discussion will be limited to procedural issues such as the organisation of site visits, arrangements for members of the public to exercise their speaking rights at the meeting, and to ensure that all the relevant paperwork and information is available for the meeting.

- **Do** use pre-meetings to resolve procedural issues to facilitate the smooth running of the formal meeting.
- **Don't** discuss the determination of applications at either Board briefing meetings or political group meetings.
- **Don't ever** use the political whip on a planning matter. This would leave the decision open to challenge and could give rise to a finding of maladministration by the Local Government Ombudsman.

8. Public Speaking at Meetings

The County Council has a procedure to allow members of the public to make representations at meetings of the Development Control and Regulatory Board. As an elected Member -

- **Do**, if contacted by the public before the meeting, explain that whilst you may express a view you must be seen to be keeping an open mind on the matter, and that you will determine the application on its merits, having regard to material considerations.
- **Don't** allow applicants or members of the public to communicate with you at all during the Board's proceedings as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. County Council Officers

- **Don't** put pressure on officers to put forward a particular recommendation as this may be seen as prejudicing their professional integrity and impartiality. This does not prevent you from asking questions or submitting views to the Chief Executive (Head of Planning) which may be incorporated into any Board report.
- **Do** recognise that officers are part of a management structure and you should only discuss a development proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with any appropriate officer and professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions, or decisions of elected Members.

10. Decision Making

- **Do** come to Board meetings with an open mind and demonstrate that you are open-minded.
- **Do** make decisions in accordance with the relevant Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, the Board may defer or refuse the application.
- **Don't** vote or take part in the decision on a proposal unless you have been present to hear everything that has been said at that meeting, including the officers' introduction to the matter.
- **Do** make sure that if you are proposing, seconding, or supporting a decision that you clearly identify and understand the planning reasons leading to this conclusion/decision. Where a decision is being taken contrary to officer recommendations, reasons for this must be given prior to the vote and these must be recorded. Be aware that the Council may have to justify the resulting decision by giving evidence in the event of any legal challenge.

11. Member Awareness

The planning system involves complex legal and technical issues which require the application of sound judgement in the assessment of planning proposals. A failure to follow proper practice and procedures can lead to serious consequences for the County Council as the Planning Authority.

The County Council has determined that all elected Members must attend a planning training session prior to being involved in the determination of planning decisions. You are strongly encouraged to participate in any further training on planning matters and this Code of Good Practice to assist you in carrying out your role properly and effectively.

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Part 5 B

Officers' Code of Conduct

Part 5B - Officers' Code of Conduct

EMPLOYEE CODE OF CONDUCT

Part 1 *General Provisions*

Purpose

- 1.1 This Code of Conduct defines the responsibilities, standards and behaviour required of you as a Leicestershire County Council employee. It reflects the fact that members of the public expect you, as a public servant, to demonstrate the highest levels of integrity and professionalism at all times. This is necessary to enable the County Council to deliver services of high quality which are value for money and reflect the Council's organisational values.
- 1.2 It is your responsibility to read this Code and to make sure your conduct meets its provisions at all times.
- 1.3 Breaches of this Code will be investigated and may result in disciplinary action being taken which could lead to dismissal. You must engage in any investigations about actual or potential breaches of this Code.

Scope

- 1.4 This Code of Conduct applies to all County Council employees, apprentices and casual workers. Volunteers, agency workers and others who work, whether paid or unpaid, for and on behalf of Leicestershire County Council are expected to comply with this Code.
- 1.5 You are required to comply with this Code when carrying out your duties as an employee or representative of Leicestershire County Council.
- 1.6 This Code of Conduct is not an exhaustive account of all the expectations upon you and should be read in conjunction with the Council's Disciplinary Policy and Procedure.
- 1.7 This Code does not apply to employees, workers or others based in schools and colleges with delegated budgets.

Part 2 *Principles*

The Code of Conduct reflects the key principles of public life recommended by the Committee on Standards in Public Life (The Nolan Committee). You must act in accordance with these principles, as set out below, and observe the following rules of behaviour:-

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Officers' Code of Conduct
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Principle 1 - Selflessness

You should act solely in terms of the public interest.

Principle 2 - Integrity

You must avoid placing yourself under any obligation to people or organisations that might try inappropriately to influence you in their work. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and relationships.

Principle 3 - Objectivity

You must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Principle 4 - Accountability

You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this.

Principle 5 - Openness

You 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

You should be truthful.

Principle 7 - Leadership

You should exhibit these principles in your own behaviour. You should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Part 3 *Standards*

- 3.1 You are required to:-
- 3.1.1 Always act in the interests of Leicestershire County Council;
 - 3.1.2 Behave at work in line with this Code of Conduct and the Council's Organisational Values;
 - 3.1.3 Attend work in accordance with your contractual requirements, carry out all of the requirements of your job and any reasonable instructions given by your manager or supervisor effectively and to the standard that is needed;

- 3.1.4 Conduct yourself, in your official or private capacity, in a way which could not reasonably be regarded as bringing the Council into disrepute or engage in any conduct that is harmful to the Council or its interests.
- 3.1.5 Be aware that actions in your off-duty hours can impact on your employment with the Council as it may result in disciplinary action being taken against you. Examples include, but are not limited to, involvement in racist incidents, criminal actions and acts of violence.
- 3.1.6 Whilst at work and/or on official Council business, dress appropriately for the role you are undertaking and wear your official Leicestershire County Council identity card;
- 3.2 Health and Safety
- 3.2.1 You have a responsibility to present yourself fit for work and be capable of carrying out your duties fully in a competent and safe manner. In addition you have a duty to take care of your own health and safety and that of others who may be affected by your actions and to co-operate with the Council and co-workers to help everyone meet their legal requirements;
- 3.2.2 If you have a specific query or concerns about health and safety in your workplace you should in the first instance talk to your line manager.

Part 4 Adherence to Council Constitution, Policies, Procedures, Operating Guidelines and Service Standards

- 4.1 You have an individual responsibility to work within Leicestershire County Council's Constitution, service requirements, policies, procedures, operational guidelines and standards, legislation and other professional standards which may apply to your role from time to time and to be aware of and keep up to date with those requirements and standards. Adherence to these ensures that:
- The Council meets its statutory requirements;
 - Service standards are maintained;
 - Proper monitoring and auditing processes can be applied.
- 4.2 If you do not follow these (whether intentionally or inadvertently) it will be regarded as a disciplinary matter. Whilst managers will assist you, you have a personal responsibility to make sure that you are familiar with your responsibilities under the Council's Constitution and other policies, procedures and guidelines, in particular:-
- HR Policies;
 - Equalities Policies;
 - Financial Procedure Rules;

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- Contract Procedure Rules;
 - Departmental operational policies, procedures and codes.
- 4.3 When using facilities and equipment, provided as part of your work, belonging to the Council you must;
- Take care of County Council property or equipment, keeping it secure and reporting any breakages or breaches in security;
 - Use equipment and facilities for authorised purposes only.
- 4.4 You must act in accordance with the Council's Smoke Free policy.

Part 5 *Public and Social Media*

- 5.1 Unless you are acting as a spokesperson for the Council as part of your duties, or you are authorised to act as a spokesperson about a particular situation, or are acting as spokesperson for one of the Council's recognised trade unions in pursuit of legitimate industrial relations activities, you must not:-
- Speak, write or give interviews about the business of the Council to the media;
 - Make a public statement which concerns the business of the Council.

To do so may result in reputational damage to the Council.

- 5.2 You should be aware of the risks you could potentially face when sharing information about your working and personal life through Social Media and the potential for disciplinary action being taken against you..

Part 6 *Relationships*

- 6.1 The County Council expects that you:-
- 6.1.1 Treat all co-workers (whether paid or unpaid) equally, fairly and with dignity and respect regardless of their circumstances or personal characteristics;
- 6.1.2 Are supportive, co-operative and maintain good working relationships;
- 6.1.3 Assist the Council achieve its aim of making the work environment free of harassment and/or bullying, discrimination or other unacceptable behaviours.
- 6.1.4 Always remember your responsibilities to the community the County Council serves and make sure you are polite, efficient and provide impartial service delivery to all groups and individuals within that community, regardless of their circumstances or personal characteristics and as defined by the policies of the Council.

6.1.5 Develop effective co-operative and professional working relationships with organisations (including in a voluntary capacity with the local community), agencies, contractors, suppliers, and service partners, without offering or inferring any advantage to any external suppliers or contractors;

6.2 Elected Members

6.2.1 Mutual confidence and trust between employees and elected members is essential to the effective operation of the County Council. Any close personal relationships which develop between you and an elected member should be declared in the same way as a relationship with another employee.

More information is contained within the Protocol on Member Officer Relations, in Part 5C of this Constitution.

Part 7 *Personal, Business, Financial or Other Interests*

7.1 For the most part, your off-duty hours are your personal concern; however you should not subordinate your employment relationship with the Council to your private interest or put yourself in a position where there is a conflict of interests.

7.2 The County Council and the public must be confident that decisions of whatever nature you make are made for good and proper reasons and are not influenced by your interests or the interests of your family, relatives or friends.

7.3 You are required to declare and register any potential or actual personal, financial, business, other employment or interest which may impact on your work, conflict with the impartial performance of your duties, put you under suspicion of improper behaviour or that would cause damage to the Council's reputation or services.

7.4 Appointment and other employment matters

7.4.1 Applicants for any County Council post are asked to declare any relationship with a member or employee of the Council. In order to avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with them;

7.4.2 In the same way, you must not be involved in decisions about discipline, promotion or pay for any employee you have a close personal relationship with.

7.5 Relationships which develop during the course of Employment

7.5.1 You are responsible for declaring, in writing to your line manager, any personal relationships that develop with another

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Council employee, which may conflict with the impartial performance of your duties.

Part 8 *Bribery, Fraud and Corruption***8.1 Bribery**

8.1.1 Bribery is defined as “an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage”.

8.1.2 Under the Bribery Act 2010, both individuals and organisations are liable for conviction in court, imprisonment and/or fines if found guilty of an offence.

8.1.3 It is useful for all employees to remember that it is unacceptable to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to ‘facilitate’ a routine procedure;
- Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- Take any action against or threaten a person who has refused to commit a bribery offence or who raises any concerns.

8.1.4 The responsibility to control the risk of bribery occurring should reside at all levels. If you have a concern regarding a suspected instance of bribery please speak up.

8.2 Fraud and Corruption

8.2.1 Fraud is defined as “deliberate deception intended to provide a direct or indirect personal gain”.

8.2.2 Corruption is defined as the “deliberate use of one’s position for direct or indirect illegitimate personal gain”.

8.2.3 The Council’s general belief and expectation is that all those associated with it will act with honesty and integrity. In particular, officers will lead by example and be accountable for their actions.

8.2.4 As an employee of the County Council you are expected to:

- Take the risk of fraud seriously;

- Secure all passwords, information, documents, money and equipment in your control which can be stolen or used to perpetrate fraud;
- Make yourself aware of corporate and departmental documented procedures, regulations or other instructions and ensure, where possible, that they are adhered to;
- Strive to achieve value for money in your use of the Council's financial resources;
- Only incur costs to the Council in accordance with your authorised limits;
- Declare any conflicts of interest that arise;
- Only accept gifts and hospitality in accordance with the County Council's Policy;
- Bring any concern you have on the adequacy of control measures to the attention of your line manager;

8.2.5 Concerns raised will be treated in accordance with the Council's Whistleblowing policy.

Part 9 *Protecting the Council's Business Interests*

- 9.1 The Council retains the intellectual property rights for work created in the course of your normal duties e.g. research, reports, designs, drawings, software developments or similar work. No property of the Council should be removed from Council premises or passed on by you or another person acting on your behalf to a third party, without the express consent of the Council.
- 9.2 Similarly, you are not permitted to use any work which you or others have created, whilst in the employment of County Council, for personal or financial gain without the express consent of the Council.

Part 10 *Whistleblowing*

- 10.1 The County Council is committed to achieving high standards of integrity and accountability and expects the same commitment from those working for the Council. Experience shows that employees are often the first to realise that there may be something seriously wrong within the Council or often have worries or suspicions and could, by reporting their concerns at an early stage, help put things right and stop potential wrongdoing.
- 10.2 The Council's Whistleblowing Policy provides a framework for you to raise concerns which you believe are in the public interest and may relate to illegal, improper or unethical conduct. You are encouraged to bring to the attention of management, knowledge of any such activity. You should be able to do so without fear of victimisation.

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Part 11 *Disclosure of Information*

- 11.1 You have a contractual responsibility to maintain confidentiality and to comply with the Council's guidance on Data Protection and Information Security and Acceptable Use Policy.
- 11.2 Confidential information includes, but is not limited to, any information regarding staff, service users, financial information, information regarding business plans or other commercially sensitive information and any information or matter which relates to the affairs and/or services of the County Council that should not be in the public domain and information about County Council Service Users and Customers.
- 11.3 You must:
- 11.3.1 Not disclose information (oral, written or electronic) given to you in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it, or unless you are needed to do so by law, or until it becomes public in the course of the Council's business;
- 11.3.2 Not prevent another person from gaining access to information to which that person is entitled by law;
- 11.3.3 Not use any information received during your employment for personal gain or benefit, or pass it on to others who might use it in a way other than might reasonably be expected in the normal course of their duties;
- 11.3.4 Where applicable, be aware of the guidance on when you make confidential information available to Elected Members. Part 4B – Access to Information Procedure Rules.
- 11.3.5 Respect political confidences as provided for in the protocol on Member/Officer Relations, Part 5C of this Constitution.
- 11.4 If you are unsure if an individual has the right to receive the information they have asked for, you must seek advice from your line manager.

Part 12 *Political Neutrality*

- 12.1 Employees serve the whole County Council as a single, statutory corporate body and not simply the political administration in power. It follows, therefore, that you must provide support to all members of the Council, regardless of the political party they represent. This is particularly important in relation to their local or representational role.

This is explained in more detail in the Protocol on Member/Officer Relations, Part 5C of this Constitution.

- 12.2 Politically Restricted Posts
- 12.2.1 Some employees hold posts that have been designated as politically restricted. If you hold this type of post you are prevented from taking an active political role either in or outside

work. You must not stand as a candidate, or hold, elected office (other than to a Parish Council), canvass at elections, speak, or write publicly demonstrating support for a political party.

12.2.2 The restrictions which apply to Political Assistants are slightly different.

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Part 5 C

Protocol on Member / Officer Relations

Part 5C - Protocol on Member/Officer Relations

Purpose

1. The purpose of this protocol is to define the respective roles of members and officers and to provide guidance on what the relationship between those roles should be.
2. The protocol also reflects the principles underlying the respective Codes of Conduct which apply to members and officers. The shared object of these Codes is to promote high standards of behaviour.

Principles

3. The fundamental principles underpinning this protocol are:
 - (a) The County Council is a democratically elected local authority delivering a range of services to the people of Leicestershire.
 - (b) The County Council is a single entity, a statutory corporate body. This relates to both the officer structure and the different areas of activity (Cabinet, Regulatory and Overview and Scrutiny) that members can be involved in.
 - (c) In everything they do, elected members and officers of the County Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.
 - (d) All elected members of the County Council are ultimately accountable to the people of Leicestershire through the ballot box for their actions as County Councillors.
 - (e) The Political Administration of the day, whether single or joint, is ultimately politically accountable for the effectiveness and delivery of its policies and plans which have been approved by the County Council and will, therefore, have an interest in ensuring that services are delivered by the officers in accordance with those approved policies and plans.
 - (f) The officers serve the whole County Council as a single statutory corporate body.
 - (g) The Head of Paid Service (Chief Executive), Monitoring Officer, Chief Finance Officer (Section 151 Officer) and Scrutiny Officer are all statutory roles with responsibilities as set out in the Articles of this Constitution.

- (h) The officers will provide adequate support to all elected members in their local or representational role.
- (i) Dealings between elected members and officers should be based on mutual trust and respect.

Role of Members and Officers

4. Members and officers are both servants of the public and indispensable to one another, although their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their role is to give advice to members (individually and collectively) and to carry out the Council's work as determined by the Cabinet and full Council under the direction of the Chief Executive and the Council's Corporate Management Team.
5. Members should not get involved in the day to day operational management of services, although this does not preclude Members from raising constituency related operational issues. Equally, officers should not get involved in politics.
6. Members will take decisions in their role as members of the Cabinet and other decision-making bodies detailed in the Constitution, including the full Council. They will do this in the light of appropriate professional advice from officers, which will ensure that all decisions comply with the law and relevant standards or codes of conduct. Officers have the right to have their advice recorded, so that elected members are fully aware of the implications of their decisions.
7. The advice given by officers will aim to serve the interests of the County Council as a whole. It should be fearless, factual, honest, objective and politically neutral. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive. Officers must be aware of the implications for the council and its members, and for the community as a whole.

Relationships between Members and Officers

8. The relationship between members and officers should be one of mutual trust and respect. Members and officers should behave courteously to each other and neither party should seek to take advantage of their position. Close personal familiarity between individual members and officers can harm professional relationships and prove embarrassing to other members and officers. Situations should be avoided that could give rise to the suspicion or appearance of any improper conduct, or the perception that a member and an officer treat one another differently from others due to the nature of a personal relationship between them. Officers are required to declare

any close personal relationships with members in the same way as they would declare a relationship with another employee.

9. Members should not raise matters relating to the conduct or capability of officers either individually or collectively at meetings held in public or in the press. Officers have no means of responding to such criticism in public. If Members feel that they have not been treated with proper respect, and courtesy or have any concern about the conduct or capability of an officer and are unable to resolve it through direct discussion with the officer they should raise the matter with the relevant Director concerned or with the Council's Monitoring Officer.
10. Members will not publish any material which is derogatory of officers generally, or specific individuals, whether directly or indirectly through their agents or political groups.
11. Members should respect the confidence of officers and, when information is shared with them, should not share it more widely, especially with the press, parish councils or members of the public, without seeking the consent of the relevant Head of Service or Assistant Director beforehand. More details of how to engage with the media are set out in the Media Relations Protocol.

Information and the political perspective

12. For the proper functioning of the County Council as a whole, officers will normally be permitted to share information freely between themselves, irrespective of whether the officer's role is connected with the Cabinet, Overview and Scrutiny or the Regulatory aspects of the County Council. Where the information has been supplied/received subject to a request for party political confidentiality an officer will be permitted to share that information with other officers if they believe that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. The request for party political confidentiality will be confirmed to, and honoured by, any officers with whom the information is shared.
13. Appropriate and regular liaison between elected members and officers connected with the Executive and Overview and Scrutiny aspects of the County Council should avoid the relationship between Scrutiny and the Executive becoming adversarial and polarised. This liaison, combined with the politically balanced nature of Overview and Scrutiny, should reduce the number of occasions on which it is necessary for information to be supplied by elected members to officers on a party political confidential basis at the Executive/Overview and Scrutiny level.
14. On request and where appropriate, officers will provide a briefing on a policy matter or individual topic to a particular political group, provided

that the same offer is made to the other political groups. There will be times when officers consider it more appropriate to brief all members at the same; this will be discussed with the political group making the request.

15. Where information is supplied to officers on a party political confidential basis, the officers will respect that confidentiality unless the officers believe that the proposed course of action appears to be in conflict with the law, or any relevant standards or codes of conduct, or would amount to an abuse of the processes of the County Council.
16. Where party political confidentiality would be maintained in accordance with the preceding paragraph, the officers may, nonetheless, seek to persuade the elected members requesting the confidentiality to agree to that information being shared with the other political groups on the grounds that it would assist the more effective functioning of the County Council; however, in the absence of any such agreement to waive the confidentiality, the officers would continue to respect it.
17. Where there is a change in Political Administration, the officers will act in relation to the new Administration and Opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party political confidentiality.

Relationship between the Cabinet and Overview and Scrutiny

18. Given the nature and purpose of the County Council and the respective roles of elected members and officers, it is accepted that the officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis to the Cabinet. For their part, Cabinet members will continue to respect the political neutrality of the officers and accept that officers are obliged to respond positively to any requests from Overview and Scrutiny for appropriate information and advice relevant to the issue being considered by Overview and Scrutiny. When a committee requests it, the Executive will provide an appropriate Lead Member to attend an overview and scrutiny meeting to explain an Executive's decision and the reasons for it.

Decisions under delegated powers

19. No executive powers will, as a matter of policy, be delegated to individual members, either as the Leader or as a member of the Cabinet. Although neither the Leader nor individual members of the Cabinet will have any personal delegated executive powers, they may, nevertheless, develop, a personal special interest in specific areas of County Council activity. The term "Lead Member", rather than "Portfolio Holder", is used to describe members with any such special interest, to avoid creating any misleading impression that the member

concerned does have personal delegated powers. The Leader may decide that there should be more than one Lead Member for any particular area of special interest.

20. The role of a Lead Member will include:

- (a) Providing a leadership role in their particular area, demonstrating familiarity and understanding of their brief.
- (b) providing a point of reference for a chief officer who wishes to sound out the elected member perspective before taking an executive decision under powers delegated to that chief officer.
- (c) Providing a better-informed elected member perspective and opinion on any relevant proposals before (or likely to come before) the Cabinet.
- (d) Appearing, as appropriate, before any relevant overview and scrutiny committee on behalf of the Executive.
- (e) Making position statements or responding to questions on the relevant area of activity, on behalf of the Executive, at any meeting of the County Council.
- (f) Speaking to the media to publicise and explain relevant decisions made at and policy proposals emerging from meetings of the Cabinet.

The role of the Lead Member for Children's Services is a statutory role and as such holds political accountability for all local authority children's services, including education and social care.

21. Where a chief officer decides (rather than volunteers) to consult a Lead Member before exercising his or her delegated powers, both will understand, and accept, that the final decision (and the responsibility which goes with it) remains with the chief officer; and that the process of reference to a Lead Member is not intended to operate as a delegation of power to the Lead Member.
22. The same principles apply where authority to take a decision has been specifically delegated to a chief officer "after consultation with" one or more elected members, whether Lead Member or local member or both. Although the process of consultation is required by the specific delegation of authority, this does not change the fact that the process is still one of consultation with, not specific approval by, the member(s) concerned. If the consultation process was handled as if it was one of specific approval, then that could reasonably be regarded as tantamount to *de facto* personal delegation to the member concerned.
23. Since consultation alone is involved, a chief officer can, theoretically, decide to proceed with his or her proposed course of action even in the face of some degree of objection from the member(s) consulted. However, a wiser course of action may be for the chief officer to decline to exercise the delegated authority and refer the decision back to the body which conferred the authority on the chief officer.

24. In implementing any process of consultation, if the view of the Lead Member is not in conformity with the professional view of the chief officer and the difference of view is material and cannot be reconciled, then the chief officer should consider:
- (a) seeking advice from the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate; and
 - (b) referring the issue to a meeting of the Cabinet or the body which conferred the delegated power -
- to protect the interests of the Lead Member, the chief officer and, ultimately, the County Council.
25. Chief officers should be careful about the methods they use to record, for internal purposes, that the process of consultation has taken place and its result. There should be mutual trust and understanding between chief officers and Lead Members - a degree of trust which should be sufficient to render inappropriate a formalised process whereby a chief officer expects Lead Members to sign written confirmation that they have read and understood the relevant material supplied to them and that they agree its content.

Keeping Members informed of matters affecting their electoral division

26. To enable members to carry out their representative and divisional role effectively, they should be fully informed as early as possible about matters affecting their division, especially where it can be anticipated that members will become involved, for example in the case of the likelihood of complaints. Residents expect their County Council representative(s) to be aware of all the activities which they may believe are in some way the responsibility of the County Council. This arrangement does not extend to individual service-related complaints.
27. Members have an important role to play in representing the County Council in their electoral division by responding to the concerns of their constituents.
28. Members must be invited to any event that has been organised in their electoral division, which is relevant to their role as a County Councillor, for example the opening of a new facility from which County Council services are being delivered. If the facility or the service provides services to adjoining electoral divisions the additional members should also be invited.
29. Whenever a public meeting is organised by the Council to consider an issue, all the members representing the electoral division(s) affected should be invited to attend the meeting as a matter of course.

30. If a member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the relevant officer(s).
31. Similarly, whenever the Council undertakes any form of consultative exercise, the relevant member(s) should be notified immediately prior to the outset of the exercise.
32. Where a report to the Cabinet, Scrutiny or Regulatory Body includes a sensitive issue affecting one or more electoral divisions, report authors must draw this to the attention of the relevant member(s) concerned, whether or not they are a member of that body. This does not apply to reports considered by informal panels or working parties.
33. Members may attend as observers at meetings of the Cabinet, Overview and Scrutiny Committee and Regulatory Bodies (Standing Order 34), including those parts of the meetings from which the public has been excluded. Subject to the consent of the Chairman a member so attending may speak (but not vote) on any matter. Representations may also be made by members in writing, particularly if they are not able to attend the meeting.
34. Where Members have notified that they have a particular interest in a matter to be considered by the Cabinet or some other body, but they are not the local member, officers are still expected to provide them with the relevant information. Care must be taken on matters on which a member has an interest as defined in the Member Code of Conduct. Members have a common law right to inspect documents and attend meetings if they can demonstrate a "need to know" for the purposes of their duties as a Councillor. (if in doubt seek advice from the Monitoring Officer).
35. Further circumstances where it would be appropriate to notify individual members include, for example:
 - An issue arising from the exercise of a Chief Officer delegated power relating to their division;
 - An approach being made to a Chief Officer by the press for comments on a particular matter relating to their division;
 - A partnership body, which includes the County Council; proposing to take action on a matter relating to their division
 - A Freedom of Information request covering a controversial issue relating to their division;
 - Where officers have received significant complaints from residents in their division, likely to lead to adverse media coverage (excluding individual service-related complaints);
 - A potentially controversial operational matter that will have a significant impact on the community in their division such as

major road works, changes in opening hours, closure of a facility etc.;

- Where a major incident has taken place.

In most cases notification via a short e-mail or simple phone call is all that is required.

36. There may be times when, in addition to the local member(s), it would be appropriate for the officer concerned to notify other members, for example the Leader, Deputy Leader or Cabinet Lead Member.

Guidance to Elected Members on providing advice and support to Officers

Constituent Issues

37. A member may be asked for advice and support by an officer who is one of their constituents. Officers are entitled to seek such assistance in the same way as any other member of the public. However, members should be aware of the Officer Employment Procedure Rules in Part 4 of this constitution and be careful not to prejudice the County Council's position in relation to disciplinary procedures or employment matters in respect of an officer. A member approached for help in such circumstances should first seek advice from the Monitoring Officer.

Employment Issues

38. A member should generally treat officers as they would a member of the public in relation to the personal receipt of council services and deal with the issue accordingly.
39. Although employees are not encouraged to do so, elected members may occasionally find themselves being approached by employees on matters relating to their personal circumstances as a member of the Council's staff.
40. This puts the elected member in some difficulty because they will potentially have a conflict of interest. On the one hand the member may well want to offer assistance to the employee, particularly if they reside in their electoral division. On the other hand, as a member of the County Council, all elected members have responsibilities as "the employer".
41. It is advised in such circumstances that the member concerned should limit their role to the following:-
- listening to the nature of the issue;
 - offering advice about where the employee can get assistance and support e.g. trade union, HR staff, manager, website;

- pointing to the various mechanisms which the Authority has in place for resolving issues and disputes with groups of employees and individuals. (These are explained below);
 - satisfying themselves that the Council's procedures (including the Whistleblowing Procedure where appropriate) are being followed correctly in that case and receiving details of the outcome. If there is concern that this may not be the case the member should seek advice from a relevant officer (i.e. Monitoring Officer, Head of Democratic Services, Head of Law and Deputy Monitoring Officer, Head of Member Service or Head of People Services).
42. Beyond the above, it would not be wise for an elected member to pursue any particular case on behalf of the employee. To do so could prejudice any procedures which are already underway and would not be in the Council's or public's interests.
43. There are a number of policies and procedures available for employees to raise individual issues in relation to their employment, in line with the Employee Code of Conduct which forms Part 5B of this Constitution.
44. The Whistleblowing Procedure is available to raise issues of bad practice, possible fraud or corruption or other matters which seem to be against the interests of the public, the Council or its staff.

[end of Part 5C]

Part 6

Members' Allowances Scheme

Part 6 – Members' Allowances Scheme **(effective 1 April 2024)**

The Leicestershire County Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following scheme:

1. This scheme may be cited as the Leicestershire County Council Members' Allowances Scheme and shall have effect from 1 April 2024, until the scheme is amended or a new scheme is adopted.

2. In this scheme,

“the Regulations” means the Local Authorities (Members' Allowances) (England) Regulations 2003.

“member” means a member of the Leicestershire County Council who is a councillor;

“co-opted member” means a co-opted member of the Children and Families Overview and Scrutiny Committee;

“year” means the 12 months ending with 31 March.

Basic Allowance

3. Subject to paragraph 9, for each year a basic allowance of £12,081(1st April 2023 rate) shall be paid to each member.

Special Responsibility Allowances

4. (1) For each year a special responsibility allowance shall be paid to those members who hold the special responsibilities in relation to the County Council that are specified in Schedule 1 to this scheme.
- (2) Subject to paragraph 9, the amount of each such allowance shall be the amount specified against that special responsibility in Schedule 1.
- (3) Where the Deputy Leader is required to take the place of the Leader during unavoidable absence of more than two weeks, an “Acting Up” allowance shall be payable, increasing the allowance of the Deputy to that of the Leader for the period concerned.

Indexation

5. The Basic and Special Responsibility Allowances be increased on annual basis from 1st April 2024 to 31st March 2028 equivalent to the percentage increase that those officers on Grade 15, spinal column point 43, receive as part of the annual employee pay award. The increase will be implemented as soon as practicable after the pay award has been agreed and where applicable back dated to 1st April of that year.

Renunciation

6. A member may, by notice in writing given to the Chief Executive elect to forgo any part of his/her entitlement to an allowance under this scheme.

Membership of more than one Authority

7. Where a member of the Authority is also a member of another authority, as defined in the Regulations, that member shall ensure that he/she does not receive allowances from more than one authority in respect of the same duties.

Part-Year Entitlements

8. (1) In accordance with the requirements of the Regulations, part-year payments shall be calculated as set out in this paragraph.
- (2) If an amendment to this scheme changes the amount to which a member is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
 - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or
 - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.
- (3) Where the term of office of a member begins or ends otherwise than at the beginning or end of a year, the entitlement of that member to a basic allowance shall be to the payment to such

part of the basic allowance as bears to the whole the same proportion as the number of days during which the member's term of office subsists bears to the number of days in that year.

- (4) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a member does not subsist throughout the period mentioned in sub-paragraph (2)(a), the entitlement of any such member to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which the term of office as a member subsists bears to the number of days in that period.
 - (5) Where a member has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that member's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which the member has such special responsibilities bears to the number of days in that year.
 - (6) Where this scheme is amended as mentioned in sub-paragraph (2), and a member has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2)(a) of that paragraph any such special responsibilities as entitle the member to a special responsibility allowance, that member's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which the member has such special responsibilities bears to the number of days in that period.
9. (1) Payments shall be made in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month;
- (2) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the member receiving more than the amount to which, by virtue of paragraph 7, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

Dependants 'Carers' Allowance

10. A Dependants 'Carers' Allowance will be available on the basis set out in Regulation 7 of The Local Authorities (Members' Allowances) (England) Regulations 2003 subject to the following conditions:-
- (1) The maximum hourly rate reimbursed for the independent care of a child under the age of 14 shall be equal to the minimum wage;
 - (2) The maximum hourly rate reimbursed for the professional care of a dependent relative shall be equal to the Council's own hourly rate for a Home Care Assistant;
 - (3) 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;
 - (4) The allowance shall not be payable to a member of the claimant's own household.

Travel and Subsistence

11. The responsibilities and duties for which travel and subsistence allowances shall be payable and other matters relating to the regulation of the Scheme shall be as specified in Schedule 2 to this Scheme.

Mileage Rates

12. Where a member uses a private vehicle the rates payable shall 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.

At the time of writing these amounts are as follows:-

Car or van	45p per mile for the first 10,000 miles 25p per mile after that
Motor cycle	24p per mile (all miles)
Cycle	20p per mile (all miles)

An additional 5p per mile to be paid when one or more passengers travel to an approved duty in the same vehicle.

Subsistence

13. The following rates of subsistence allowance shall apply:-

Rate A - County Hall

Rates based upon purchase of a meal at County Hall:

Breakfast	£4.85
Lunch	£7.80

Rate B – Other than County Hall

Breakfast	£8.20
Lunch	£11.30
Tea	£5.10
Dinner	£19.50

14. The Qualifying duty period (inclusive of travelling time) for all subsistence allowances relating to meals shall be as follows:-
- | | |
|-----------|--|
| Breakfast | 3 hours before 11.00 a.m. |
| Lunch | 3 hours including 12 noon to 2.00 p.m. |
| Tea | 3 hours including 3.00 p.m. to 6.00 p.m. |
| Dinner | 3 hours ending after 7.00 p.m. |

15. The following rates shall apply for overnight absence (Room only):

Provincial Rate – not to exceed £110
London Rate – not to exceed £170.

Co-optees' Allowance

16. No such allowances are currently payable.

Claims

17. Claims for carers', travel and subsistence allowances shall be made by the member concerned within 2 months of the date of the duty to which it relates. Requests for payment of previously unclaimed allowances will not normally be backdated beyond two months entitlement from the date of the claim.

SCHEDULE 1

SPECIAL RESPONSIBILITY ALLOWANCES**EFFECTIVE FROM 1 APRIL 2023 (Increase for 2024 pending)**

	£
Leader of the Council	40,937
Deputy Leader of the Council	24,570
Members of the Cabinet	21,859
Cabinet Support Members	8,285
Chairman of Scrutiny Commission	11,299
Scrutiny Commissioners	8,190
Chairmen of Overview and Scrutiny Committees	5,082
Deputy Chairmen of Overview and Scrutiny Committees	2,261
Spokesmen of Overview and Scrutiny Committees	2,261
Chairman of Development Control and Regulatory Board	4,503
Deputy Chairman of Development Control and Regulatory Board	2,261
Chairman of Corporate Governance Committee	2,919
Opposition Group Leaders	773
	Per Group Member
Group Whips	67
	Per Group Member

SCHEDULE 2

**TRAVEL AND SUBSISTENCE – APPROVED DUTIES AND OTHER
CONDITIONS**

The duties listed below qualify for travel and subsistence allowances.

(A) GENERAL COUNTY COUNCIL DUTIES

- (a) Attendance at meetings of the County Council and relevant bodies appointed by or on behalf of the Council.
- (b) Working Parties or Panels of members properly convened by the Chief Executive in consequence of a decision of the relevant body of the Council.
- (c) Formal briefing meetings or conferences of members convened by the Chief Executive or conferences of members properly convened in relation to the proceedings of meetings or functions of a relevant body of the Council in accordance with arrangements approved by that body. (Separate provisions exist for conferences organised by other bodies.)
- (d) Meetings for the appointments of Chief Officers.
- (e) Inspections and tours of County Council and other establishments and venues, approved in advance by or on behalf of the relevant body of the Council.
- (f) Official deputations to or meetings with government departments, statutory authorities or other local authorities.
- (g) Joint meetings with other local authorities or consortia of authorities.
- (h) Attendance by Members appointed for that purpose, at a meeting properly convened on behalf of a public authority or government department to discuss issues relating to the work of the County Council.
- (i) Attendance by invitation at a Parish Council or Parish Meeting to participate in the discussion of a County Council function (this provision to apply to travel allowance but not subsistence).
- (j) Meetings between group whips or their nominees to make recommendations on appointments.

- (k) Attendance by members at meetings of County Council bodies, or site visits when requested specifically by the body concerned or in response to a notice sent under the local issues alert procedure for the purpose of speaking on the item concerned.
- (l) Learning and development events organised by or on behalf of the Chief Executive.
- (m) Official and courtesy visits when:
 - (i) approved by or on behalf of the relevant body; or
 - (ii) made by the Chairman of the County Council (or the Vice-Chairman when deputising for him) in his capacity as Chairman of the County Council for purposes directly connected with the functions of the Council.
- (n) General information visits or tours having been previously approved by or on behalf of the relevant body.
- (o) The following, as tasks approved by the County Council for the purpose of, or in connection with, the discharge of the functions of the County Council, or any of its relevant bodies.
 - (i) Attendance by members at County Hall or other establishments within the County on such occasions as they consider necessary in connection with the discharge of the Council's functions up to a limit of 15 occasions in each Council year. These are known as "duty days". (Please note this provision is an authorisation to carry out an approved duty of member's own choice on 15 occasions of whatever duration and not 15 duty days which could be interpreted for instance as 30 half days.)
 - (ii) Attendance by each Group Leader and any member of the Cabinet of the Council or Cabinet Support Member at County Hall or other County Council establishments for any purpose which he/she considers to be necessary in connection with the discharge of the County Council's functions.
 - (iii) Attendance by individual members before the Ombudsman when requested by him.
 - (iv) Full meetings of Political Groups held at County Hall and specifically related to the business of the County Council on not more than 15 occasions in the period commencing with the day of the Annual Meeting of the Council in any year and terminating on the day preceding the Annual Meeting in the following year.

(B) CONFERENCES

Overnight accommodation and conference fees are normally booked by or on behalf of the Chief Executive and paid for by the Authority direct. Travel and subsistence allowances are payable for conferences organised by other bodies. Attendance must be approved beforehand by or on behalf of the relevant body and the rates for conference travelling and subsistence are the same as for other duties.

(C) OTHER BODIES

Attendances by individual members at meetings of outside bodies to which the County Council makes appointments or nominations qualify for travel and subsistence allowances. The approval relates to meetings of the bodies concerned, its standing committees and subcommittees but not to other activities of the body except in the case of the Local Government Association where the approval extends to all its activities including service on other bodies on the appointment or nomination of the Association.

Where travel arrangements are made by the County Council on a member's behalf and the member is able to claim travel/subsistence from the body concerned, the member shall ensure that the County Council is reimbursed in full. Wherever possible the member should arrange for the County Council to be reimbursed directly by that body.

USE OF OFFICIAL CAR

The County Council has the ability to provide an official car and driver to certain members on occasions, particularly the Chairman and Vice Chairman. This is on a strictly regulated basis and on the following conditions:-

- (a) The duties must relate to the discharge of the County Council's functions or as an appointed representative of the County Council. Under no circumstances can they be used for private or party political purposes;
- (b) The activities of the Chairman will take precedence over any others;
- (c) All such transport will be managed by the Civic Affairs Team within the Chief Executive's Department.

TRAVEL AND SUBSISTENCE RATES

In all cases expenditure must have been actually and necessarily incurred.

Travel

Travelling expenses are limited to the actual journey from home or a members' regular place of work except in exceptional circumstances approved by the Constitution Committee or Chief Executive on the Committee's behalf (for definition of exceptional circumstances see note below).

Long journeys such as travelling back from holiday to attend a meeting do not qualify other than the amount equivalent to the local journey. If a member's home is outside the County the distance and time used for any claim is from the point where the journey to County Hall crosses the County boundary. If a member's usual business address is outside the County the full journey may be claimed on the basis that a person's work venue is not always within an individual's control.

(i) Air

Air fare may be paid if the rate compares reasonably with the cost of alternative means of travel having regard to the likely savings in time, subject to the agreement of the Chief Executive.

Applications must be raised with the Chief Executive as soon as possible prior to the date the duty is to be performed.

(ii) Mileage Rates

Where a member uses his own private car or one belonging to a member of his family or otherwise provided for his use the rate claimed shall be laid down in the Council's Scheme of Allowances.

Where a member uses a lease car the rate claimed shall not exceed the relevant rates specified for the Council's officers.

(iii) Rail

The rate of travel by rail shall be by reference to the second class fare. Tickets may be obtained from the Members' Secretariat.

(iv) Taxis

The rate for travel by taxi cab shall not exceed,

- (a) In cases of urgency or where no public transport is reasonably available, the amount of the actual fare.

- (b) In any other case, the amount of the fare for travel by appropriate public transport.

(v) **Other Expenses**

Actual expenditure incurred on buses, tolls, ferries or parking fees.

Definition of Exceptional Circumstances

The Constitution Committee, or the Chief Executive on the Committee's behalf, will normally only be prepared to consider granting exceptions to the general policy of the County Council in relation to the payment of travelling allowances for long journeys where the following circumstances apply:-

Nature of Duty

1. Attendance at a meeting to consider a "sensitive" issue which will have a substantial impact on the member's particular electoral division whether or not the member serves on the body concerned; or
2. Attendance at a meeting of the County Council where non-attendance, taken together with that of other members, might upset the elected party balance to such an extent that the decision is likely to be affected; or
3. In other cases where it would not be appropriate or reasonable to expect a substitute to act on the member's behalf; and

Exceptional Circumstances

4. Illness or bereavement in respect of a close family member; or
5. Unplanned and/or unavoidable absence due to unusual work commitments.

General

Applications must be raised with the Chief Executive as soon as possible prior to the date on which the duty is to be performed.

The making of any payments retrospectively will not normally be considered.

Subsistence

The amount of subsistence claimed relates to the period of time a member is engaged on an approved duty.

Rates and qualification periods are specified in the Council's Scheme of Allowances.

[end of Members' Allowances Scheme]

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Part 7

Management Structure

Part 7 - Officer Management Structure

Department	Senior Posts
Chief Executive's Department	Chief Executive Director of Law and Governance Assistant Chief Executive Head of Law Head of Regulatory Services Head of Planning and Historic and Natural Environment Head of Democratic Services Head of Member Services
Public Health Department	Director of Public Health Assistant Director (Commissioning) Assistant Director (Delivery)
Corporate Resources Department	Director of Corporate Resources Assistant Director (Finance, Strategic Property and Commissioning) Assistant Director (IT, Communications & Digital, Commercial & Customer Services) Assistant Director (Corporate Services)
Children and Families Department	Director of Children and Family Services Assistant Director (Targeted Early Help and Children's Social Care) Assistant Director (Education SEND and Commissioning) Strategic Lead Transformation and Change
Adults and Communities Department	Director of Adults and Communities Assistant Director (Strategic Commissioning) Assistant Director (Integration, Access and Prevention) Assistant Director (Operational Commissioning)
Environment and Transport Department	Director of Environment and Transport Assistant Director (Development and Growth) Assistant Director (Environment and Waste) Assistant Director (Highways and Transport Operations)

[end of Part 7]

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Part 8

Register of members of the Executive

Part 8

Register of Members
of
the Executive

Part 8 - Register of Members of the Executive

Members of the Executive:

Name and address	Electoral Division
Mr N J Rushton, * Hood House, 19 Lower Church Street, Ashby de la Zouch, Leicestershire, LE65 1AB	Valley
Mrs D Taylor + # 6 Geary Close Anstey Leicestershire LE7 7LW	Bradgate
Mrs C M Radford ■ 3 Moscow Lane Shepshed LE12 9EX	Shepshed
Mr P Bedford 15 Lockymead Drive Desford Leicestershire LE9 9JW	Markfield, Desford & Thornton
Mr L Breckon, 5 Triumph Road, Glenfield, Leicester, LE3 8FR	Glenfields, Kirby Muxloe & Leicester Forests
Mr O O'Shea 19 Heathbrook Drive Ratby Leicester LE6 0XB	Groby & Ratby
Mr B L Pain, 30 Davies Close, Market Harborough, Leicestershire, LE16 7ND	Bruntingthorpe
Mrs P Posnett 11 Somerset Close Melton Mowbray Leicestershire LE13 0JS	Melton East
Mrs L Richardson 21 The Pastures Narborough Leicester, LE19 3DS	Enderby and Lubbethorpe

Members of committees of the Executive

Name and address	Electoral Division
<i>[there are no committees of the Executive]</i>	

- * Chairman
- + Vice-chairman
- # Lead Member for the Children and Young People's Service
- Lead Member for Adult Social Care

[end of Part 8]

Part 9

Record of Specific Delegations to Heads of Departments and Proper Officer Provisions

Part 9 - Record of Specific Delegations to Heads of Departments and Proper Officer Provisions

1. The General Scheme of Delegation to Heads of Departments and other Authorities in Section D of Part 3 is supplemented by a series of decisions by the County Council, the Executive and boards and committees in the Regulatory area. These decisions confer additional delegated powers on heads of departments for specific purposes.
2. The Chief Executive maintains the register of these decisions which is open to public inspection at County Hall and is updated by the Chief Executive in accordance with the power to do so given by Article 15.02 in Part 2.

[end of Part 9]

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Petitions Scheme for Leicestershire County Council

1. Leicestershire County Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in the local authority area and/or is a recipient of County Council services and is associated with the petition, including under 18's, can sign or organise a petition.
2. All petitions sent or presented to the Council will be acknowledged. 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.
3. Paper petitions can be sent to:

**Head of Democratic Services
Room 200B, Chief Executive's Department
County Hall, Glenfield
Leicestershire, LE3 8RA**

Or, a petition can be created, signed and submitted online as an 'e-petition' by following this weblink:

<http://politics.leics.gov.uk/mgePetitionListDisplay.aspx?bcr=1>.

(Note: Detailed guidance on the process for submitting, signing and processing an e-petition (which does not form part of the Petitions Scheme) is attached as an appendix to this Scheme.

4. If you chose to use an alternative petition system other than the Council's own system e.g. Change.org, you will either need to print a copy of the petition statement and corresponding signatures and send it to us by post to the above address, or email a pdf copy to democracy@leics.gov.uk.
5. Further information on the information contained within the Petitions Schemes is available from Democratic Services, (telephone 0116 305 2583) or by emailing democracy@leics.gov.uk.

Other ways of making your views known

6. Petitions are not the only, or necessarily the quickest way to resolve an issue or make your views known. You could also:
 - a) Contact the Council's Customer Service Centre raising a concern about a service provided by the Council (see <https://www.leicestershire.gov.uk/about-the-council/contact-us/opening-times-and-contact-information> for more information); or
 - b) Raise the matter with your local County Councillor and ask him/her to take up the matter on your behalf (more details are at <https://www.leicestershire.gov.uk/about-the-council/how-the-council-works/councillors-and-conduct/find-your-county-councillor>).

What are the guidelines for submitting a petition?

7. Petitions submitted (whether by post or online) to the Council must:
- have a clear and concise statement setting out the subject of the petition and the action the County Council is being asked to take in response (i.e. either do something, or stop doing something);
 - contain the name and address (residential, work, or study (as applicable)) of any person supporting the petition. E-petitions should also include signatories' email addresses;
 - include the address and contact details for a 'lead petitioner', with whom the County Council can communicate on behalf of all the signatories. These details will not be placed on the website;
 - have a minimum of 100 signatures;
 - be received by the Chief Executive's Department eight clear days before the relevant meeting at which it is to be presented, if it is to be considered at a meeting.

Exceptions to the Petitions Scheme

8. The following will not be accepted as petitions within the scope of the scheme:
- Submissions which are vexatious, abusive or otherwise inappropriate;
 - Submissions relating to matters which would usually be dealt with through the corporate complaints process;
 - Submissions that are substantially similar to a petition considered by the County Council within the last six months;
 - Issues raised by staff related to their employment;
 - Petitions that are handled through alternative means or where other procedures apply, such as those referring to:
 - i. Planning Applications;
 - ii. Parking Policies;
 - iii. Decisions for where there is an existing right of appeal;
 - iv. Statutory petitions (for example requesting a referendum on having an elected mayor).
9. 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.

What will the Council do when it receives my petition?

10. An acknowledgement will be sent to the lead petitioner within 10 working days of receiving the petition. It will confirm whether the petition has been accepted or the reasons for not accepting it, let them know what we plan to do with the petition and when they can expect to hear from us again.
11. 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 many 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 here <https://www.leicestershire.gov.uk/>
12. If your petition is about something that a different council is responsible for we will consider the best method for responding to it. This might be to simply forward the petition to the other council but could involve other steps. We will always notify you of the action we have taken.

How will the Council respond to petitions?

13. 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 this is not possible our response to a petition will depend on what it asks for and how many people have signed it, but may include one or more of the following:

Response from the Service Director

14. The Service Director, following consultation with the relevant Cabinet Lead Member and Local Member, will respond to the Lead Petitioner in the circumstances outlined below:
 - If the petition has less than 100 signatures, a written response will be provided within 56 days (2 months) following acknowledgement of the petition. As petitions of this size do not qualify under this Scheme, the matter will then be deemed to be dealt with.
 - If the petition has more than 100 signatures and relates to an issue in a single electoral division, where possible a written response will be provided within 28 working days following acknowledgement of the petition. If it is not possible to respond in that timeframe, the lead petitioner will be notified of the reasons for this. The response will be copied to the Chairman and Spokesmen of the relevant Commission, Committee or Board. If the lead petitioner and/or one or more of the

relevant elected members feel that the petition has not been dealt with properly they can ask for the matter to be referred to the relevant Commission, Committee or Board for consideration.

Referral to the relevant Committee or Board.

15. Petitions with more than 1000 signatures and affecting two or more electoral divisions can be considered by the relevant Commission, Committee or Board. The Lead Petitioner can, however, choose to have the petition dealt with by the Service Director, following consultation with the Cabinet Lead Member and Local Member, where appropriate, should they prefer.
16. Petitions relating to an issue that affects a single electoral division will not be considered at a meeting unless they have 10,000 or more signatures, in which case the relevant Commission, Committee or Board will be asked for its views prior to the matter being considered by the full Council (see paragraph 21 below).
17. If the lead petitioner chooses for the matter to be referred to the relevant Commission, Committee or Board, it will be considered at the next available meeting (where that meeting is more than 10 working days from the date the petition is received). Alternatively, if the matter of the petition is already on the work programme the Lead Petitioner will be invited to the meeting to submit representations about their petition under the agenda item it relates to.
18. When presenting a petition at a meeting, the Lead Petitioner, or their local County Councillor (if preferred) will be asked to read the wording of the petition and state the number of signatories. The Chairman of the meeting can invite the Lead Petitioner to explain the background to the issue where he/she believes it would be helpful to do so. Please note that you will not be able to join in the subsequent debate at the meeting.
19. The meeting will discuss the matter raised in the petition. If the meeting is more than 28 days following receipt of the petition, the Service Director will present a report responding to the petition. Otherwise, Members can request a report outlining the response to be submitted to the next meeting. Once the Commission, Committee or Board has all the necessary information, it will come to a view as to how the petition should be addressed.
20. A maximum of two petitions can be submitted to the Commission, Committee or Board at any one time.

Referral to full Council

21. If a petition has been signed by at least 10,000 persons living, working or studying in the Authority area, or if a County Council body decides it is appropriate, the petition will be debated by the full Council. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will consider the petition at its next meeting, although

on some occasions this may not be possible and consideration will then take place at the following meeting.

22. Councillors will discuss the petition and the Council will decide how to respond to it 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 scrutiny committee. Where the issue is one on which the Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The Cabinet itself may propose a response to the Council when the petition is considered. The lead petitioner will receive written confirmation of the Council's decision. This confirmation will also be published on our website.

What can I do if I feel my petition has not been dealt with properly?

23. If you feel that we have not dealt with your petition properly, the lead petitioner has the right to request that the Council review the steps taken in response to the petition. The lead petitioner will be required to provide an explanation of the reasons why the petition has been dealt with is not considered to be adequate. The Council will consider the request and respond accordingly within 10 working days. Any request for an review should be submitted to Democratic Services by emailing democracy@leics.gov.uk.

[end of Part 10]

Guidance for E-Petitions

[Note: the following Guidance for E-Petitions was formally approved by the County Council when adopting the Petitions Scheme for Leicestershire County Council for the first time. Future amendments to these instructions will be made by the Chief Executive in accordance with the agreement made by the Constitution Committee on 10 September 2010. Although, unlike the Constitution itself, this Guidance does not require formal approval of the County Council, it is nevertheless included here for the sake of completeness and will be updated as necessary, to reflect any amendments made.]

Who can submit an e-petition?

If you live, work or study in Leicestershire and/or receive a service provided by the County Council you can organise an e-petition and the County Council will consider the matter.

What issues can my e-petition relate to?

A petition should involve a call for action and be relevant to some question over which the Council has authority, or which otherwise affects the County.

Who can sign an e-petition?

Anyone who lives, works or studies in Leicestershire and/or receives a County Council service can sign an e-petition. You will need to be a registered user of the County Council's online Political Management System and provide your name, residential/work/study address, and valid email address for verification purposes.

How do I start an e-petition?

When starting an e-petition, access the County Council's e-petitions homepage (<http://politics.leics.gov.uk/mgePetitionListDisplay.aspx?bcr=1>) and select the 'Submit a new e-petition' option.

You will then be prompted to do one of the following:

- register as a new user by submitting your contact details and creating a user name and password. In order that we can ascertain you are a 'real user' you will be required to enter a validation code of letters/numbers at the bottom of the registration form and, having submitted your details, be requested to validate your account via a link sent to your registered email address;
- if you are an existing user, simply type in your user name and password.

Then enter a title and the system will automatically check against existing e-petitions to allow you to see if a similar one has been received recently. You will then need to fill in the online form.

PLEASE NOTE: If you chose to use an alternative petition system other than the Council's own system e.g. Change.org, you will either need to print a copy of the petition statement and corresponding signatures and send it to us by post, or email a pdf copy to democracy@leics.gov.uk.

What information should my e-petition contain?

Your e-petition will need to include the following:

- Subject matter;
- A statement setting out what action you would like the Council to take;
- A short name, to generate a direct weblink to the e-petition – e.g. by typing 'road' this would generate politics.leics.gov.uk/road as a weblink.

Your petition will then be submitted to the Democratic Services Section of the Chief Executive's Department. A member of staff will then contact you prior to the petition being signed off and going live on the system. Your local County Councillor and the Director of the relevant Department concerned will be notified of the details of the petition.

What happens to an e-petition that has been submitted?

An officer from the Democratic Services Section will contact the lead petitioner to discuss when you wish your e-petition to go live on the website and the appropriate time for when you wish to stop collecting signatures. Following the end date for signatories the e-petition will be dealt with in accordance with the County Council's Petition Scheme.

Can I still submit a paper petition?

Yes, paper petitions can still be submitted via your local County Councillor or directly to the Chief Executive (see contact details below).

Petitioners can gather names both on paper and via the online form, although repeat names will be removed. Where a dual exercise occurs, both forms of petition should be run for the same period of time and must be submitted together. Please inform Democratic Services if you intend to do this.

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 homepage (<http://politics.leics.gov.uk/mgePetitionListDisplay.aspx?bcr=1>).

Unless you are already a user and can log on to 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 'real 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.

Data Protection

The details you give us are needed to validate your support for the e-petition and is the same information you would be required to give for a paper petition, but these details will not be published on the Council's website. The Council will not contact you unless you are the lead petitioner, or it needs to clarify matters regarding the specific petition you have submitted/signed. Your details will not be passed on to any third party.

Contact Details

To discuss submitting an e-petition or for further general information and advice, you can contact the Democratic Services Section via:

- email: democracy@leics.gov.uk;
- or
- telephone: 0116 305 6036
- or
- write to:

Head of Democratic Services
Room 200B, Chief Executive's Department
County Hall, Glenfield
Leicestershire,
LE3 8RA

NOTE

1. The Council reserves the right to refuse to accept any e-petition that is frivolous, vexatious, discriminatory or otherwise inappropriate. However, the Democratic Services Section will, where possible, suggest to the lead petitioner an amended form of words that is considered acceptable.
2. The Council accepts no liability for the content of petitions on the Council's webpages. The views expressed should not be considered as those of the Council.

[end of Guidance for E-Petitions]

Part 11

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Part 11 - Index

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