



Meeting: **Constitution and Ethics Committee**

Date/Time: **Thursday, 10 September 2026 at 2.30 pm**

Location: **Sparkenhoe Committee Room, County Hall, Glenfield**

Contact: **Mrs J Twomey (0116 3052583)**

Email: **joanne.twomey@leics.gov.uk**

Membership

Mr. D. Harrison CC (Chairman)

Dr. J. Bloxham CC	Mr. M. T. Mullaney CC
Mr. S. L. Bray CC	Mr. D. Page CC
Mr. G. Cooke CC	Mr. B. Piper CC
Dr. S. Hill CC	Mr J. Poland CC
Mr. A. Innes CC	Mr. C. A. Smith CC
Mrs. K. Knight CC	Mrs D. Taylor CC

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AGENDA

<u>Item</u>	<u>Report by</u>
1. Minutes of the meeting held on 13 July 2026.	(Pages 3 - 10)
2. Question Time.	
3. Questions asked by members under Standing Order 32(1).	

Democratic Services ◦ Department of Public Health, Communities, Law and Governance
Leicestershire County Council ◦ County Hall

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4. Urgent Items.
5. Declarations of Interest in respect of items on the agenda.
6. Presentation of petitions under Standing Order 33.
7. Review and Revision of the Constitution. Monitoring Officer (Pages 11 - 18)
8. Government Planning Reforms: Amendment to Planning Governance, Delegations and Member Planning Code Arrangements. Director of Growth, Environment and Transport, Monitoring Officer (Pages 19 - 64)
9. Learning and Development. Monitoring Officer (Pages 65 - 70)
10. The Council's Charity Trustee and Trustee Appointment Roles. Monitoring Officer (Pages 71 - 82)
11. Date of the next meeting.

The next meeting of the Constitution and Ethics Committee is scheduled to take place on 19 November 2026 at 14:00.

12. Any other items which the Chairman has decided to take as urgent.



Minutes of a meeting of the Constitution and Ethics Committee held at County Hall, Glenfield on Monday, 13 July 2026.

PRESENT

Mr. G. Cooke CC
Mr. D. Harrison CC
Dr. S. Hill CC
Mr. A. Innes CC
Mrs. K. Knight CC
Mr. M. T. Mullaney CC

Mr. D. Page CC
Mrs. R. Page CC
Mr. B. Piper CC
Mr. C. A. Smith CC
Mrs D. Taylor CC

Apologies

Dr. J. Bloxham CC and Mr. S. L. Bray CC

1. Appointment of Chairman.

It was moved by Mrs Taylor and seconded by Mrs Page:

“That Mr David Page be elected Chairman for the period until the next Annual Meeting of the Council.”

It was moved by Mr Innes and seconded by Mr Cooke:

“That Mr Dan Harrison be elected Chairman for the period until the next Annual Meeting of the Council.”

The Chief Executive informed members that both candidates had been duly proposed and seconded and in accordance with Standing Order 25 a secret ballot would therefore take place.

The Chief Executive announced the results of the ballot as follows:

Five votes for Mr Dan Harrison, four votes for Mr David Page and one abstention. The motion “That Mr Dan Harrison be elected Chairman for the period until the next Annual Meeting of the Council” was therefore carried.

RESOLVED:

That Mr Dan Harrison be elected Chairman for the period until the next Annual Meeting of the Council.

Mr D. Harrison CC – In the Chair

2. Appointment of Vice- Chairman.

It was moved by Mr Mullaney and seconded by Mr Innes:

“That Mr Stuart Bray be appointed Vice Chairman for the period until the next Annual Meeting of the Council.”

It was moved by Mrs Taylor and seconded by Mrs Page:

“That Mr David Page be appointed Vice Chairman for the period until the next Annual Meeting of the Council.”

The Chief Executive informed members that both candidates had been duly proposed and seconded and in accordance with Standing Order 25 a secret ballot would therefore take place.

The Chief Executive announced the results of the ballots as follows:

Six votes for Mr Stuart Bray and four votes for Mr David Page. The motion “That Mr Stuart Bray be appointed Vice Chairman for the period until the next Annual Meeting of the Council” was therefore carried.

RESOLVED:

That Mr Stuart Bray be appointed Vice Chairman for the period until the next Annual Meeting of the Council.

3. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

4. Questions asked by members under Standing Order 32(1).

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

5. Urgent Items.

There were no urgent items for consideration.

6. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

Mr C. Smith CC and Mr D. Harrison CC declared a non-registerable interest in agenda item 10 (Update on the operation of the Members’ Code of Conduct) as they were both named within that report.

7. Presentation of petitions under Standing Order 33.

The Chief Executive reported that no petitions had been received under Standing Order 33.

8. Terms of Reference.

RESOLVED:

That the terms of reference for the Constitution and Ethics Committee as set out in Part 3 of the Council's Constitution be noted.

9. The Committee's Role where the Council Acts as Charity Trustee

The Committee considered a guide produced by the Chief Legal Officer and Monitoring Officer which set out the Committee's role and responsibilities when it considered matters on behalf of the Council where the Council acts as a Charity Trustee. A copy of the guide marked 'Agenda Item 9' is filed with these minutes.

RESOLVED:

- (a) That the Committees role and responsibilities where the Council acts as Charity Trustee as outlined in the guide be noted;
- (b) That a further report detailing where the Council acts as Charity Trustee be provided at the next meeting of the Committee.

10. Update on the operation of the Members' Code of Conduct

The Committee considered a report of the Chief Legal Officer and Monitoring Officer, the purpose of which was to provide an update on the operation of the Members' Code of Conduct complaints process, including complaints received and progressed since the last annual report on the operation of the process presented to the Corporate Governance Committee in November 2025. A copy of the report marked 'Agenda item 10' is filed with these minutes.

Arising from discussion, the following points were made:

- (i) Members raised concerns about the impact the increase in complaints had on officer time and financial resources. Members recognised that a rise in complaints did not necessarily indicate a corresponding rise in misconduct, as complaints could arise for a range of reasons, including political tensions, misunderstandings about the scope of the Code, and concerns raised by members of the public about conduct online. It was emphasised that the Committee should consider the nature of the complaints and the reasons for them, rather than drawing assumptions from numbers alone.
- (ii) It was noted that, in order to find a breach of the Code, the full formal process, including a formal investigation, had to be followed. Many matters were dealt with informally as a proportionate means of resolving complaints and this did not amount to a finding of breach. However, it was acknowledged that informal resolution could still involve an acceptance that behaviour had not met the standards expected under the Code. A member suggested that the informal resolution process could appear unclear, particularly where an apology was given without a formal finding of breach. The Monitoring Officer explained that national guidance was clear that a breach could only be found where the full process had been completed. It was suggested that greater clarity and transparency about outcomes would assist members and the public in understanding this part of the

process.

- (iii) A member sought clarification regarding the process for agreeing apologies as part of an informal resolution. The Chief Legal Officer and Monitoring Officer explained that there was no prescribed wording for an apology. The apology should ordinarily come from the member concerned, but that the Panel could, where appropriate, ask the Monitoring Officer to prepare a draft to ensure the apology covered specific matters. In such cases, the Panel would normally wish to see the proposed wording before it was agreed with the member.
- (iv) It was noted that if a member was not prepared to give an apology in the terms required by the Panel, the matter could be referred for investigation. The Committee noted that this had occurred in at least one previous case.
- (v) The Committee discussed the role of Independent Persons and the importance of ensuring that they understood the way in which the Council operated. It was reported that six Independent Persons had been appointed following a rigorous recruitment process, with details of their relevant backgrounds having been included in the report to Council. Members noted that Independent Persons often had experience in public life and acted in similar roles for other authorities so were very familiar with the political environment within which members operated.
- (vi) Members expressed concern that the effectiveness of the Code depended on all members accepting the standards of conduct expected of those in public life and respecting the need to abide by the Council's complaints process, and the decisions of the Member Conduct Panel. It was suggested that there needed to be a renewed emphasis across the organisation on the importance of the Code and on the commitment made by elected members to abide by it. The Committee noted that members were expected to comply with the Code when elected, and that the Code was based on the Nolan Principles, which applied nationally.
- (vii) Members commented on the limitations of the current national standards framework. It was noted that, in the absence of stronger sanctions for breaches of the Code, there was a risk that the complaints process could be undermined or perceived as lacking consequence. The importance of political group leaders and whips in setting the tone, reinforcing expected standards, and addressing conduct within their own groups was emphasised as being particularly important in such circumstances.
- (viii) Members suggested there was always a need for a proportionate and common-sense approach to complaints, including the role of group leaders and whips in addressing issues informally where appropriate and reducing unnecessary or politically motivated complaints. The Monitoring Officer confirmed that there was also always scope for discussion between political groups to seek to avoid complaints becoming unnecessarily formalised.
- (ix) The Committee noted that a significant number of complaints received arose from members of the public who had seen members' behaviour online and believed that this automatically amounted to a breach of the Code. The Monitoring Officer explained that where the conduct did not relate to the business of the County Council, or to the business of another authority in circumstances where the member was acting in an official capacity, it would not fall within the scope of the Code. A Member suggested it would be helpful, for members of the public, to

improve the information available on what could properly be considered under the Code, particularly in relation to the use of social media.

- (x) Members requested that future reporting include further data on complaints, including the number of complaints made against individual members where appropriate, and the source of complaints. It was reported that, of the complaints referred to in the discussion, 13 had been submitted by county councillors, 55 by members of the public, and 33 by officers or staff. Members considered that this information was useful in clarifying that the majority of complaints were not politically motivated.
- (xi) Members discussed the need to balance between protecting freedom of expression and ensuring that members complied with the standards expected of them. It was noted that members were entitled to hold and express opinions, including political opinions that many may disagree with, but that the way in which those opinions were expressed would be important in ensuring the principles of the Code were being met. The Committee recognised that the threshold for political comment was high and that the Member Conduct Panel had sought to adopt a pragmatic and balanced approach, taking account of the public interest and the resources involved in carrying out an investigation.
- (xii) Members acknowledged the work of the Member Conduct Panel and the Independent Persons and considered that, although the current national framework limited the sanctions available, the Panel process was operating effectively and sensibly within those constraints.

RESOLVED:

- (a) That the update on the operation of the Members' Code of Conduct complaints process be noted;
- (b) That the significant increase in the number of complaints received and the resulting impact on officer, Independent Person and Member Conduct Panel resources be noted;
- (c) That the number of matters currently subject, or being referred, to external investigation and the associated resource and financial implications be noted;
- (d) That the proposed amendments to the Members' Code of Conduct complaints procedure attached as an Appendix to this report (including the strengthened provisions on complaint submission, support and reasonable adjustments, confidentiality, public interest and proportionality, informal resolution, Independent Person involvement, conflicts of interest, investigations, hearings, decision notices, public apologies and reporting arrangements) be approved;
- (e) That the revised Independent Persons Protocol attached as Appendix 2 to the Appendix to this report be approved and that this replace the current Independent Persons Protocol appended to the Council's procedure for dealing with allegations of a breach of the Members' Code of Conduct;
- (f) That update reports on the operation of the Members' Code of Conduct complaints process be presented to the Committee more frequently while complaint volumes

remain elevated;

- (g) That that future update reports include information on the cost of external investigations, where available;
- (h) That the Independent Persons e thanked for their ongoing commitment and assistance in supporting the fair and effective operation of the Members' Code of Conduct complaints process;
- (i) That officers be requested to provide clearer information on the Code of Conduct complaints process regarding the use and effect of informal resolution and the steps to be followed where an agreed outcome was not complied with.

11. Social Media Guidance for Members - Review and Supplementary Guidance on Monetised Accounts.

The Committee considered a report of the Chief Legal Officer and Monitoring Officer the purpose of which was to present the outcome of a review of the Council's existing Social Media guidance for embers against recent Local Government Association (LGA) model guidance, and to see approval for a new supplementary advice note relating to monetised social media activity by Members. A copy of the report marked 'Agenda Item 11' is filed with these minutes.

Arising from discussion, the following points were made:

- (i) It was questioned how the Council would become aware if a member was monetising a social media account, particularly where that account was being used in connection with Council business and any income generated had not been declared. It was noted that, as with any disclosable pecuniary interest, responsibility for declaring the interest rested entirely with the member concerned.
- (ii) A Member expressed concern about the potential for members to use social media, while acting in their Council role, in a way that generated income. Whilst social media was now a common means by which elected members communicated with residents and expressed their political views, it was suggested that there should be a clear distinction between content that was deliberately used to generate outrage, engagement, or income, particularly where that content related to Council business.
- (iii) Members discussed the use of Council meeting footage on personal and/or political social media pages. Concern was raised that, where Council footage from meetings was being used to generate income, this might raise issues relating to the Council's copyright and breach rules relating to members use of Council property. It was suggested that members should not use such material without appropriate permission, particularly where the material was being monetised.
- (iv) The Committee considered whether there was a case for the Council to take action where Council footage or other Council-owned material was used without permission for the purpose of generating income. In doing so, members recognised that any action would need to be proportionate, having regard to the likely level of income involved, the cost and officer time required to pursue the matter, and the wider public interest. It was that this should be considered further,

and the Council agree an approach to members' use of Council meeting footage or other Council material on monetised social media accounts.

RESOLVED:

- (a) That it be noted that the Council's existing Social Media Guidance for Members remained fit for purpose and did not require amendment;
- (b) That the supplementary advice note for Members – Monetised Social Media Posts be approved;
- (c) That the existing Social Media Guidance and the supplementary advice note be circulated to all Members and published on the Council's Elected Member Portal, and that Members be asked to review their Register of Interests in light of the advice now provided;

12. Update on Proposed National Changes to the Local Government Ethical Standards Framework.

The Committee considered a report of the Chief Legal Officer and Monitoring Officer, the purpose of which was to provide an update on national developments relating to the local government standards and conduct framework for local authorities in England, including proposed changes to the Members' Code of Conduct regime, associated complaint handling arrangements, sanctions and appeals. The report also provided an update on the national change relating to publication of members' home addresses in registers of interests, and the local action already taken by the County Council in anticipation of that change. A copy of the report marked 'Agenda Item 12' is filed with these notes.

RESOLVED:

- (a) That the Government's proposed reforms to the local government standards and conduct framework be noted;
- (b) That it be noted that the detailed legislative timetable for the wider standards reforms had not yet been confirmed, although the Government had stated its intention to bring forward legislation as soon as parliamentary time allows;
- (c) That it be noted that section 65 of the English Devolution and Community Empowerment Act 2026 had inserted a new section 32A into the Localism Act 2011, changing the requirements relating to the publication of members' home addresses in public registers of interests from 29 June 2026;
- (d) That it be noted that the Council had already taken local steps to remove councillors' home addresses from the publicly available version of the Register of Interests, while maintaining the requirement for members to register relevant interests with the Monitoring Officer;
- (e) That public register wording, member guidance and internal processes be updated as necessary to refer to section 32A of the Localism Act 2011;
- (f) That officers be requested to review the Council's member training arrangements in light of the proposed national reforms, including training on the Members' Code of Conduct, registration and declaration of interests, social media use, the

Member/Officer Protocol and the operation of the complaints process, and to bring forward proposals for future training and reporting arrangements as part of a further report to the next meeting of the Committee;

- (g) That a further report be brought to the Committee once draft legislation, regulations, statutory guidance, or implementation dates for the wider standards reforms became available.

13. Requests for Dispensations.

RESOLVED:

That it be noted that no requests for dispensations had been received by the Monitoring Officer.

14. Dates of future meetings.

RESOLVED:

That future meetings of the Constitution and Ethics Committee be held on the following dates:

Thursday, 10 September 2026 at 2.30pm
 Thursday, 19 November 2026 at 2.00pm
 Thursday, 18 March 2027 at 2.00pm
 Thursday, 22 July 2027 at 2.00pm
 Thursday, 14 September 2027 at 2.00pm
 Thursday, 11 November 2027 at 2.00pm

1.30 - 2.46 pm
 13 July 2026

CHAIRMAN



**CONSTITUTION AND ETHICS COMMITTEE – 10th SEPTEMBER
2026**

REPORT OF THE MONITORING OFFICER

REVIEW AND REVISION OF THE CONSTITUTION

Purpose of the Report

1. The purpose of this report is to recommend changes to the Constitution as following discussion by Group Leaders. The proposed amendments are detailed in the Appendix attached to this report.

Background

2. Article 15 of the County Council's Constitution gives the Monitoring Officer a duty to monitor and review the operation of the Constitution to ensure that the aims and principles set out within this are given full effect. It requires that changes to the document should only be approved by the full County Council after consideration of the proposal by the Chief Executive and/or Chief Legal Officer and Monitoring Officer and the Constitution and Ethics Committee or, in the case of the Financial Procedure Rules and Contract Procedure Rules, the Corporate Governance Committee.
3. The last set of changes to the Constitution were presented to the Constitution Committee in April 2026.

Proposed Amendments

4. It is proposed that changes are made to the following areas of the Constitution:
 - Articles (Part 2),
 - Meeting Procedure Rules (Part 4A)

Full details and the reasons for the changes are set out in the Appendix attached. A summary of the amendments is set out below.

Articles

Role of the Chairman and Vice Chairman

5. When the Constitution was amended in December, it included an amendment to Article 5, to state that one of the responsibilities of the Chairman and, in his or her absence, the Vice-chairman, will be to distance themselves from the political arena and to preside over meetings of the County Council in a fair manner, ensuring its business can be carried out efficiently and with regard to the rights of all county councillors and the interests of the community.
6. A consequence of this is that the Vice Chairman role is now clearly defined as apolitical, and as such the Vice Chairman should not sit on any Council committees during their year of office. This goes against the Council's convention, which has been for the Vice Chairman to continue to sit on Committees and participate in meetings. It has always been recognised that the Vice Chairman should not have a prominent role but they have never previously been excluded.
7. It is therefore proposed that this provision be amended to clarify that, whilst the Vice Chairman will act in the Chairman's absence, the requirement to be completely apolitical only applies to the Chairman unless they are at any time required to step into the role of Chairman for a significant period.

Meeting Procedure Rules

Supplementary Questions

8. Over the last 18 months the number of questions received at full Council has increased. It is therefore proposed, to help ensure the smooth running of the meeting, that notice of any supplementary questions be submitted in writing to the Chief Executive by 12 noon on the day of the meeting. This would allow for the Chair to be adequately briefed and provide a short period that would increase the likelihood of answers being provided at the meeting.

Notices of Motion

9. At a previous meeting of the County Council, debate was had regarding a Notice of Motion which many members commented was not suitable to be considered at a full Council meeting given this related to a local matter.
10. Currently, the scope for Notices of Motion is that they must be clear and concise and be about matters for which the Council has responsibility, or which affect the County or its residents. Without being too restrictive, it is proposed that this wording is amended to read that they "must be clear

and concise and be about matters of strategic, policy, or county wide significance for which the Council has responsibility, or which affect the County or its residents, providing that there is an impact on more than one electoral division.”

Additional request to amend Standing Order 25 (Voting)

11. A request was made to consider amending Meeting Procedure Rule 25. The rule currently requires a member to be present in the Council Chamber when the Chairman puts the proposition. It was suggested that members who leave the Chamber during a debate should also be prevented from voting, as they may not have heard all the points made and may therefore be unable to reach a fully informed decision.

Current position

12. The Council currently applies this approach only at quasi-judicial meetings, such as meetings of the Development Control and Regulatory Board. There is no legal requirement to introduce an equivalent rule for meetings of the full Council and Meeting Procedure Rule 25(4) reflects the position under the Local Government Act 1972, which permits a member to leave and return during a debate, provided that they are present when the vote is taken. Any such amendment would therefore be a matter of local choice.

Legal and practical considerations

13. The Council has the power to adopt a reasonable and proportionate local rule restricting voting to members who have heard the whole debate. Case law supports the lawfulness of restrictions intended to promote informed decision-making. However, the strongest precedent relates to planning and other quasi-judicial proceedings rather than political debate at full Council. This distinction is reflected in the County Council’s current arrangements as outlined above.
14. Looking at the approaches taken by other local authorities, similar restrictions do not appear to be widely used in full Council standing orders. Any amendment would therefore require careful drafting to ensure that it was proportionate and could be applied fairly. In particular, consideration would need to be given to:
 - the effect of brief or unavoidable absences;
 - the treatment of formal adjournments and scheduled breaks; and
 - the arrangements for monitoring attendance and enforcing the rule consistently.

Further consideration

15. It is worth noting that the request arose partly from concerns about the Council meeting in July, when a number of members left the Chamber during debates on the Notices of Motion. This was particularly evident after the Council decided not to take a break and the meeting continued for an extended period. As a result, it has also been suggested that a break should routinely be scheduled at an appropriate point in the meeting. As this may reduce the likelihood of members leaving during a debate, it is proposed that the possible amendment to Rule 25 be considered further following the September Council meeting and further discussion with Group Leaders.

Recommendation

16. It is recommended that:
- (a) the County Council be recommended to approve the proposed changes to the Constitution as set out in the Appendix attached to this report;
 - (b) officers be requested to give further consideration the merits of amending Standing Order 25(4) following the Council meeting in September and following further discussion with Group Leaders.

Equality Implications

17. There are no equalities implications arising from this report.

Human Rights Implications

18. There are no human rights implications arising from this report.

Background Papers

The Constitution of Leicestershire County Council.

Circulation under Local Issues Alert Procedure

None.

Officers to Contact

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Appendices

Appendix – Proposed Changes to the Constitution August 2026

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APPENDIX

PROPOSED AMENDMENTS TO THE CONSTITUTION OF LEICESTERSHIRE COUNTY COUNCIL AUGUST 2026

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<u>PART 2 - ARTICLES</u>		
Article 5 – Chairman and Vice Chairman	Delete from paragraph 5.01(b) the words ‘distance themselves from the political area and to’ Add a new paragraph 5.02 to read as follows: The Chairman will distance themselves from the political arena during their period as Chairman of the Council. This provision will not apply to the Vice Chairman unless they are required to step into the role of Chairman for a significant period.	To align with the Councils convention to allow the Vice Chairman to continue to sit on Committees and participate in meetings.
<u>PART 4A – MEETING PROCEDURE RULES</u>		
Standing Order 7 – Questions from elected Members	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 submit this in writing to the Chief Executive by 12 noon on the day of the meeting, must confine himself or	To allow sufficient time to consider supplementary questions and increase the likelihood of answers being provided at the meeting.

	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 an answer to a supplementary question cannot be provided at the time, a written response will be provided, where possible, within seven working days of the meeting. In paragraphs (5) - (12) of this Standing Order, the word "question" shall include such a supplementary question.	
Standing Order 10 – Notices of Motion	Amend paragraph (6) to read as follows: Motions must be clear and concise and be about matters of strategic, policy, or county wide significance for which the Council has responsibility, or which affect the County or its residents, providing that there is an impact on more than one electoral division and must not...”	To ensure Notices of Motions to full Council or focused on matters of strategic importance.



CONSTITUTION & ETHICS COMMITTEE – 10 SEPTEMBER 2026

REPORT OF THE DIRECTOR OF GROWTH, ENVIRONMENT & TRANSPORT & THE MONITORING OFFICER

GOVERNMENT PLANNING REFORMS: AMENDMENTS TO PLANNING GOVERNANCE, DELEGATIONS AND MEMBER PLANNING CODE ARRANGEMENTS

Purpose of Report

1. The purpose of this report is to set out the constitutional, delegation and conduct changes required to align the Council's planning decision-making arrangements with the Government's planning reforms, in particular the national scheme of delegation for planning functions and the associated statutory guidance. The report asks the Committee to consider and recommend approval of revised Development Control and Regulatory Board ("DCRB") terms of reference, revised officer delegations, a revised Members' Planning Code of Good Practice, and new guidance governing the gateway assessment by a Nominated Member and Nominated Officer. This report forms part of the wider implementation route for the planning reforms: a separate report will be submitted to the Development Control and Regulatory Board (DCRB) on 14 September 2026 for information, together with a briefing note for members, and the constitutional changes recommended by this Committee will be submitted to the County Council for approval on 23 September 2026.

Background

2. The Planning and Infrastructure Act 2025 introduced a nationally prescribed framework for the delegation of planning functions, supported by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 and statutory guidance issued by the Ministry of Housing, Communities and Local Government on 1 June 2026. The Government's stated aim is to bring greater clarity and consistency to the role of planning committees, so that committees focus on proposals that matter to an area while more minor and technical decisions are made by officers.
3. The statutory guidance states that, from 31 October 2026, non-compliance with the Regulations may expose planning decisions to judicial review where a committee determines an application which should have been delegated to officers. The Council's Constitution, DCRB terms of reference, officer delegations, Planning Code of Good Practice and operational arrangements therefore need to be updated before that date.

Summary of the new national scheme:

Application/function category	Effect of national scheme	Council response
Schedule 1 applications	Must be determined by officers unless the separate own-interest provisions apply.	Officer delegations expressly provide for delegated determination of all Schedule 1 applications and for notification arrangements where required.
Schedule 2 applications	Presumed to be determined by officers unless the Nominated Member and Nominated Officer agree that referral to DCRB is necessary and at least one statutory referral criterion is met.	DCRB terms of reference and officer delegations establish the referral gateway and confirm that member, parish, objection-number or other local call-in triggers cannot require DCRB referral.
Own-Interest applications	May be referred to committee where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to transparency, propriety and public accountability.	Officer delegations and the Planning Code of Good Practice include own-interest and substitute arrangements to secure separation between applicant/promoter interests and planning decision-making.
Nominated roles	Statutory guidance envisages a Nominated Officer, normally the Chief Planning Officer or equivalent, and a Nominated Member, normally the committee chair or equivalent, with cover arrangements.	The documents identify the Chair of DCRB as Nominated Member, the Vice Chair and other trained members as substitutes, and the Chief Planning Officer as Nominated Officer with senior officer cover where required.

Changes to the DCRB terms of reference

4. The DCRB terms of reference in Part 3 of the Constitution have been updated as set out in Appendix A to this report, so that planning and development control functions are expressly subject to the 2026 Regulations, the planning elements of the Council's Scheme of Delegation, the Board's procedures and the Constitution. The revised terms confirm that DCRB may determine Schedule 2 applications only where the Nominated Member and Nominated Officer agree that referral is necessary and that at least one statutory criterion is met. They also provide for Own-Interest applications to be reported to DCRB

only where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to statutory guidance, transparency, propriety and public accountability. The changes include:

- Retention of DCRB as the Council's non-executive planning decision-making body for matters which may lawfully be reported to it.
- Definition of the Nominated Member, Nominated Officer, Chief Planning Officer, Schedule 1, Schedule 2 and Own-Interest application roles for local constitutional purposes.
- Confirmation that the Chair of DCRB is the Nominated Member, with the Vice Chair, the relevant Board Spokesperson or other trained Board member as substitutes in defined circumstances.
- Removal of any implication that a local member request, parish or town council request, objection threshold, applicant request, objector request or other external trigger can require referral to DCRB.

Changes to officer delegations

5. Part 9 of the Constitution has been amended as set out in Appendix B to this report, by updating the specific delegations to the Director of Growth, Environment and Transport and by identifying the Chief Planning Officer function for the purposes of the planning elements of the Council's Scheme of Delegation. The revised officer delegations make officer determination the default position required by the national scheme, while preserving referral routes where the Regulations, statutory guidance and the Council's constitutional arrangements permit them.
 - Power 29 is updated for strategic planning consultations, with referral to members where the matter is of strategic importance or otherwise requires member consideration under the Constitution and the planning elements of the Council's Scheme of Delegation.
 - Power 30 is introduced/updated to cover the planning elements of the Council's Scheme of Delegation and Chief Planning Officer functions, including delegated determination of Schedule 1 applications and Schedule 2 applications unless the gateway test is met.
 - Own-Interest application provisions require appropriate separation between the applicant/promoter/landowner or service-client function and the planning decision-making function.
 - The Director of Growth, Environment and Transport is authorised, following consultation with the Chief Legal Officer/Monitoring Officer and Chief Planning Officer, to approve, publish and amend operational guidance and management arrangements consistent with the Constitution, Regulations and statutory guidance.

- Powers 31, 32, 33, 34, 35 and 37 are aligned with the revised delegation framework so that connected development management matters are handled consistently with the 2026 Regulations and the planning elements of the Council's Scheme of Delegation.
- Existing Power 30 (Rights of Entry) is renumbered as Power 30A to accommodate the new amendments to the planning elements of the Council's Scheme of Delegation power; no substantive amendment is proposed.
- The table below states which of the existing delegations are being amended, where the delegations originated and whether the changes are substantive or administrative.

Power	Originating body	Nature of amendment
29	Cabinet	substantive amendment
30	New	new delegation
30A	DCRB	renumbering only
31	DCRB	substantive amendment
32	Cabinet	substantive amendment
33	DCRB	substantive amendment
34	DCRB	substantive amendment
35	DCRB	no substantive change
37	DCRB	no substantive change

New gateway process for the Nominated Member and Nominated Officer

- Appendix D sets out practical guidance for applying the referral gateway. It is intended to promote consistency, transparency and lawful decision-making when determining whether a Schedule 2 or Own-Interest application should be referred to DCRB. The guidance proceeds from the central proposition that officer delegation is the default position unless the relevant test for referral is positively met. The key points from the guidance are as follows:
 - For Schedule 2 applications, referral should occur only where the Nominated Member and Nominated Officer agree that referral is necessary and that the proposal raises either issues of economic, social or environmental significance to the local area, or significant planning matters having regard to the development plan and other material considerations.
 - For Own-Interest applications, referral may occur where the Nominated Member and Nominated Officer agree that referral is appropriate having regard to statutory guidance, the nature of the Council's interest, the nature and scale of the development, and the need for transparency and public accountability.
 - The guidance introduces a two-stage local assessment: an administrative/legal gateway check followed by a significance assessment

covering economic, social, environmental and planning-policy matters, plus own-interest considerations.

- It identifies matters which must not, without more, be treated as reasons for referral, including the volume of objections or support, local member or parish requests, political controversy, publicity, committee workload, historic views about the applicant/developer, or pressure on the Chair/Nominated Member or senior officers.
- It provides a recording template requiring the classification, significance checklist, matters disregarded, outcome and recorded reasons to be documented on the file and, where relevant, in delegated or DCRB reports.

Implementation and practical implications

7. Subject to approval by the County Council, implementation requires the Constitution to be updated so that Part 3 reflects the revised DCRB terms of reference and Part 9 reflects the revised officer delegations. Appendix E sets out in a schedule all the proposed changes. The revised Members' Planning Code of Good Practice (Appendix C) should be issued to all relevant members and incorporated into the Council's planning training arrangements. The Nominated Member and Nominated Officer gateway guidance, including the recording template, needs to be published and used from 31 October 2026 alongside the revised planning elements of the Council's Scheme of Delegation. DCRB members, substitute members, spokespeople, senior planning officers and relevant governance officers also need to be briefed on the new legal gateway, the treatment of Own-Interest applications, lobbying safeguards, substitute arrangements and the requirement to record referral decisions and reasons clearly on the planning file and, where relevant, in delegated or DCRB reports.
8. As part of the implementation arrangements, a separate report will be taken to DCRB on 14 September 2026 for information. That report will draw members' attention to the proposed constitutional changes, the revised Planning Code of Good Practice and the new gateway process and will be accompanied by a briefing note explaining the practical effect of the national scheme of delegation for DCRB members, substitute members and the Nominated Member role. This briefing note is attached at Appendix F. Subject to this Committee's consideration of the proposed amendments, the necessary constitutional changes will then be submitted to the County Council for approval on 23 September 2026, so that the revised arrangements can be in place before the national scheme comes into force on 31 October 2026.
9. The practical implications are principally operational rather than structural. More applications will be determined under delegated powers where the national scheme requires or presumes officer determination, and applications will only be reported to DCRB where the statutory gateway is met and the Nominated Member and Nominated Officer agree referral. Existing practices which could amount to local call-in arrangements, objection-number triggers or automatic referral following a local member, parish or town council request must therefore

be replaced by the gateway assessment process. The operation of the gateway should be monitored after commencement, with periodic review of referral and non-referral decisions to test consistency, identify any issues arising from lobbying or member involvement, and inform any future minor amendments to the guidance or associated management arrangements.

10. The majority of the planning delegations affected by the proposals originate from DCRB although certain consultation-related delegations originated from Cabinet. To the extent that any executive-function delegation requires separate approval or confirmation through Cabinet arrangements, that will be undertaken through the appropriate executive governance route.

Recommendation

11. The Committee is asked to:

- (a) note the Government's national scheme of delegation for planning functions and the requirement for the Council's Constitution and associated planning governance arrangements to be aligned with that scheme before it comes into force on 31 October 2026;
- (b) recommend to the County Council that the revised Development Control and Regulatory Board terms of reference, officer delegations and Members' Planning Code of Good Practice, set out in Appendices A, B and C to this report, be approved;
- (c) endorse the guidance for the Nominated Member and Nominated Officer applying the DCRB gateway test, set out in Appendix D, for use alongside the revised planning elements of the Council's Scheme of Delegation and associated management arrangements;
- (d) note the Schedule summarising the proposed Planning governance and delegation changes at Appendix E;
- (e) note that a separate report will be submitted to the Development Control and Regulatory Board on 14 September 2026 for information, together with the briefing note set out at Appendix F, for members on the practical operation of the revised arrangements; and
- (f) note that, subject to this Committee's consideration, the proposed constitutional changes will be submitted to the County Council for approval on 23 September 2026.

Legal and governance implications

12. The amendments are necessary to reduce the risk that planning decisions are taken by the wrong decision-maker after the commencement of the national scheme. The revised arrangements also support the Council's governance objectives by ensuring transparent recording of any decision to refer, or not to refer, an application to DCRB; by maintaining officer independence for

delegated decisions; and by managing conflicts or own-interest issues through substitution and separation arrangements.

Financial, staffing, equalities and environmental implications

13. There are no direct financial implications arising from the constitutional amendments themselves. Implementation will require officer time to update the Constitution, publish the revised documents, develop the recording template and deliver member/officer training. The report does not introduce new service policy with direct equalities or environmental impacts; however, the gateway itself requires consideration of relevant planning, social, economic and environmental significance where those matters arise in individual planning applications.

Consultation

14. The proposed amendments have been prepared using the four draft documents attached as Appendices A–D. The documents are informed by statutory guidance and by Planning Officers Society good practice material, both of which emphasise the need for local constitutions and planning committee arrangements to be updated before commencement of the national scheme. DCRB will receive a separate information report and briefing note on 14 September 2026 so that members are aware of the revised constitutional and operational arrangements before the changes are considered by the County Council on 23 September 2026.

Background papers

Ministry of Housing, Communities and Local Government, Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England, published 1 June 2026.

Planning Officers Society, Good Practice Guidance Note – National Scheme of Delegation, published 3 June 2026.

Appendices:

Appendix A	Revised Development Control and Regulatory Board terms of reference / planning delegations
Appendix B	Revised officer delegations – Director of Growth, Environment and Transport
Appendix C	Revised Members' Planning Code of Good Practice
Appendix D	Guidance for Nominated Member and Nominated Officer applying the DCRB gateway test
Appendix E	Schedule of Proposed Planning Reforms

Appendix F Member briefing note**Officers to contact**

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DCRB PLANNING DELEGATIONS – SUGGESTED CHANGES TO PART 3: RESPONSIBILITY FOR FUNCTIONS

Development Control and Regulatory Board

1. The Development Control and Regulatory Board ('the 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.**

The following functions relating to town and country planning and development control specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the 2000 Regulations'), and relevant to a county council, being non-executive functions of the Council, are delegated to the Board, subject to any officer delegations contained in this Constitution and to the requirements of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ('the 2026 Regulations'):

- (i) The exercise of those functions relating to town and country planning and development control which are specified in Schedule 1 to the 2000 Regulations which are relevant to a county council. Such functions shall be discharged in accordance with the 2026 Regulations, the Council's Planning Scheme of Delegation, the Board's procedures and this Constitution.
- (ii) Without prejudice to the generality of sub-paragraph (i) above, to determine:
 - (A) any planning application falling within Schedule 2 to the 2026 Regulations where the Nominated Member and the Nominated Officer agree that referral to and determination by the Board is necessary and that at least one of the statutory criteria for referral is met;
 - (B) any Own-Interest application where the Nominated Member and the Nominated Officer agree that referral to and determination by the Board is appropriate, having

APPENDIX A

regard to the statutory guidance, transparency, propriety and public accountability; and

(C) any other planning matter which is not required by law or by the 2026 Regulations to be determined by officers and which the Chief Planning Officer considers should be referred to and determined by the Board in accordance with the Council's Planning Scheme of Delegation and this Constitution.

For the purposes of this paragraph:

- "Nominated Member", "Nominated Officer", "Own-Interest application", "Schedule 1 application" and "Schedule 2 application" have the meanings given by the 2026 Regulations
- 'Chief Planning Officer' shall mean "the officer designated by the Director of Growth, Environment and Transport as the Council's chief officer responsible for the exercise of planning functions for the purposes of the Planning Scheme of Delegation, or any officer authorised to act in that capacity".
- The Nominated Member shall be the Chair of the Board. Where the Chair is unavailable, has an interest in the application, is the applicant, or is otherwise unable properly to participate in the referral decision, the Vice Chair of the Board shall act as substitute Nominated Member. Where the Vice Chair is also unavailable or unable properly to participate, the relevant Board Spokesperson, or such other trained member of the Board, shall act as substitute Nominated Member.
- The Nominated Officer shall be the Chief Planning Officer, or such other officer authorised to act in that capacity in accordance with the Council's planning delegation arrangements.

(iii) To hear pre-application or pre-determination presentations of proposed developments, where arranged in accordance with the Board's procedures, and for members of the Board to ask questions and highlight issues that may require further consideration.

The provisions of this Paragraph 3(a) constitute a specific scheme for the discharge of planning functions in accordance with the 2026 Regulations. The remaining functions of the Board shall continue to be exercised subject to the delegations referred to in paragraph 2 and the other relevant provisions of this Constitution.

The exercise of the function in this paragraph 3(a) shall be in accordance with the Council's Planning Scheme of Delegation and any guidance or management arrangements approved under Part 3 of this Constitution.

References in this Part to the 2000 Regulations and the 2026 Regulations include those Regulations as amended, re-enacted or replaced from time to time, and references to statutory guidance include any statutory guidance issued or revised in connection with those Regulations.

For the avoidance of doubt, no request by a local member, parish council, town council, applicant, objector or other person, and no specified number of objections or representations,

shall require a planning application or other planning matter to be referred to the Board. Such matters may only be referred where permitted by the 2026 Regulations, the statutory guidance, the Council's Planning Scheme of Delegation and this Constitution.

(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 2000 Regulations.

(c) Licensing

Those functions relating to licensing which are specified in Schedule 1 to the 2000 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 2000 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 2000 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 Council's capacity as employer.

(g) Byelaws

Making recommendations to the Council relating to the making, amendment, revocation or re-enactment of byelaws which are specified in Schedule 1 to the 2000 Regulations and which are relevant to the 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.

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PROPOSED CHANGES TO PART 9: RECORD OF SPECIFIC DELEGATIONS TO HEADS OF DEPARTMENT - DIRECTOR OF GROWTH, ENVIRONMENT AND TRANSPORT

- For the purposes of this Part 9, “Nominated Member”, “Nominated Officer”, “Own-Interest application”, “Schedule 1 application” and “Schedule 2 application” have the meanings given by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (“the 2026 Regulations”)
- “**Chief Planning Officer**” shall mean “the officer designated by the Director of Growth, Environment and Transport as the Council’s chief officer responsible for the exercise of planning functions for the purposes of the Planning Scheme of Delegation, or any officer authorised to act in that capacity”.
- The **Nominated Member** shall be the Chair of the Development Control and Regulatory Board (the ‘Board’). Where the Chair is unavailable, has an interest in the application, is the applicant, or is otherwise unable properly to participate in the referral decision, the Vice Chair of the Board shall act as substitute Nominated Member. Where the Vice Chair is also unavailable or unable properly to participate, the relevant Board Spokesperson, or such other trained member of the Board shall act as substitute Nominated Member.
- The **Nominated Officer** shall be the Chief Planning Officer, or such other officer authorised to act in that capacity in accordance with the Council’s planning delegation arrangements.
- References in this Part to the 2026 Regulations include those Regulations as amended, re-enacted or replaced from time to time, and references to statutory guidance include any statutory guidance issued or revised in connection with those Regulations.

Power 29 – Strategic Planning Consultations

29. Strategic Planning Consultations

Power to respond to district councils, neighbouring authorities, statutory undertakers and government departments on behalf of the Council, except where the proposal:

- (i) would result in a development that conflicts with a site allocation within an adopted development plan for which the Council is responsible;
- (ii) is considered to be of strategic importance;
- (iii) is otherwise considered by the Chief Planning Officer, following consultation where appropriate with the relevant Head of Service or service lead, to require referral to members in accordance with the Constitution and the Planning Scheme of Delegation.

Power 30. Planning Scheme of Delegation and Chief Planning Officer Functions

Power to exercise, as the Chief Planning Officer for the purposes of the Council's Planning Scheme of Delegation, all planning matters and functions delegated to officers by the Constitution, save where the matter is expressly reserved to the full County Council, the Cabinet or the Board.

This shall include power:

- (a) to determine under delegated powers all Schedule 1 applications under Regulation 4 of the 2026 Regulations and to notify district councils of any such determination;
- (b) to determine under delegated powers all Schedule 2 applications under Regulation 5 of the 2026 Regulations except where the Nominated Member and Nominated Officer agree that referral to and determination by the Board is necessary because at least one of the statutory criteria for referral is met;
- (c) to determine under delegated powers any Own-Interest application under Regulation 6 of the 2026 Regulations except where the Nominated Member and Nominated Officer agree that referral to and determination by the Board is appropriate. Where an application is promoted by, made on behalf of, or materially involves the service area responsible for exercising planning functions, the Council's own-interest and substitute arrangements shall be applied so as to secure appropriate separation between the applicant/promoter function and the planning decision-making function;
- (d) to produce, maintain and publish a Planning Scheme of Delegation and associated management arrangements;
- (e) to sub-delegate the determination of Schedule 1 applications, Schedule 2 applications, Own-Interest applications and other planning matters to such officers as are identified in the Planning Scheme of Delegation and associated management arrangements;
- (f) in respect of any planning matter not required by law or by the 2026 Regulations to be determined by officers, to decide that the matter should nevertheless be reported to the Board, Cabinet or full County Council (as appropriate) where the Chief Planning Officer considers that referral is necessary; and
- (g) to ensure that where the Nominated Member or Nominated Officer is unavailable, has an interest in an application, is the applicant, or is otherwise unable properly to participate in the referral decision, the relevant substitute arrangements are used and the reason for substitution is recorded.

The Director of Growth, Environment and Transport, following consultation with the Chief Legal Officer and Monitoring Officer and the Chief Planning Officer, is authorised to approve, publish and amend guidance and associated management arrangements for the operation of the Planning Scheme of Delegation, including guidance for the Nominated Member and Nominated

Officer, provided that such guidance and arrangements are consistent with the Constitution, the 2026 Regulations and any statutory guidance issued in connection with those Regulations. For the avoidance of doubt, no request by a local member, parish council, town council, applicant, objector or other person, and no specified number of objections or representations, shall require a planning application or other planning matter to be referred to the Board. Such matters may only be referred where permitted by the 2026 Regulations, the statutory guidance, the Council's Planning Scheme of Delegation and the Constitution.

Conflicts of interest

For the purposes of paragraph 30(c) above, the Council's own-interest and substitute arrangements require appropriate separation between the applicant, promoter, landowner or service-client function and the planning decision-making function.

Where the Council, a member, an officer, or a service area within the Council is the applicant, promoter, landowner or otherwise has a material interest in the application, no officer or member who is directly involved in promoting, preparing, submitting, instructing on, or advocating the proposal shall participate in the referral decision or the determination of the application.

Where the Nominated Member or Nominated Officer is unavailable, has an interest in the application, is the applicant, is involved in the applicant or promoter function, or is otherwise unable properly to participate, the relevant substitute shall act and the reason for substitution shall be recorded.

Where the Chief Planning Officer is unable properly to act as Nominated Officer in a particular case, the Director of Growth, Environment and Transport may designate an alternative suitably senior officer to act as Nominated Officer for that case. These arrangements shall be applied consistently with the Members' Code of Conduct, the Planning Code of Good Practice, the Planning Scheme of Delegation, the 2026 Regulations and any statutory guidance issued in connection with those Regulations.

Power 30A – Rights of Entry

30A. Rights of Entry

- (a) Power to enter premises for the purpose of enforcing the control of hazardous substances pursuant to the relevant legislation in force for the time being.
- (b) Power to exercise any right of entry onto land which is exercisable by the Council in order to survey and/or carry out work which is considered necessary in order to carry out a delegated function, subject to compliance with the relevant legislation in force for the time being.

Power 31 – Development Management – Town and Country Planning

31. Development Management – Town and Country Planning

- (a) Power to issue directions under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- (b) Power to determine under delegated powers any request, application, consent, approval, certificate, discharge or other development management matter connected with a planning application where that matter falls to be determined by officers under the 2026 Regulations or the Council's Planning Scheme of Delegation.

Power 32 – Strategic Planning Consultations (Mineral and Waste)**32. Strategic Planning Consultations (Mineral and Waste)**

Power to respond to strategic consultations from Mineral and Waste Planning Authorities on the basis that where there appears to be significant policy implications for the Council the matter will be referred to the Cabinet or otherwise to members as considered necessary by the Chief Planning Officer in accordance with the Constitution and Planning Scheme of Delegation.

Power 33 – Amendment of Planning Conditions**33. Amendment of Planning Conditions**

Power, where the Board has determined an application or other planning matter, to:

- (a) make changes to the wording of the Board's decision, including to delete, vary or add conditions, informatives, heads of terms for planning obligations or provisions of a planning obligation, where consistent with the Board's resolution, or, where relevant, summary reasons for refusal;
 - (b) accept non-material or minor changes or amendments to the development;
 - (c) consider the effect of any subsequent changes in legislation or policy; and
 - (d) formalise the wording of changes made by the Board to an officer recommendation,
- provided that the Chief Planning Officer is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the Board, nor that such changes could reasonably have led to a different decision being reached by the Board.

Power 34 – Works to Trees**34. Works to Trees**

Power to comment on and/or determine applications for works to trees protected by a tree preservation order in accordance with the 2026 Regulations and the Council's Planning Scheme of Delegation, including determination under delegated powers unless the application is referred to the Board in accordance with those arrangements. In exercising this power, the Chief Planning Officer or authorised officer may consult, and have regard to

advice from, the relevant officer or service lead with responsibility for arboricultural or tree preservation matters.

Power 35 – Access to Properties to Inspect Trees Protected by Leicestershire County Council Tree Preservation Orders

35. Access to Properties to Inspect Trees Protected by Leicestershire County Council Tree Preservation Orders

Power to exercise the functions of the Council under section 214B of the Town and Country Planning Act 1990 to authorise officers to enter land for the purpose of surveying trees in connection with reviewing tree preservation orders and/or exercising any of the functions of the Council under Part VIII of the Act in relation to trees.

Power 37 – Power to Require Information as to Interests in Land – Town and Country Planning Act

37. Power to Require Information as to Interests in Land – Town and Country Planning Act

Power to the Director of Growth, Environment and Transport and the Chief Executive to exercise any rights of the Council to require information as to interests in land, subject to compliance with the relevant legislation in force for the time being.

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PART 5A(1) MEMBERS' PLANNING CODE OF GOOD PRACTICE

Members' Planning Code of Good Practice

1. Relationship to the Members' Code of Conduct
2. Role and Conduct of Members and Officers
3. Development Proposals and Interests under the Members' Code of Conduct
4. Bias: Predetermination and Predisposition in the Planning Process
5. Applications Submitted by the Council, Members or Officers
6. Lobbying of and by Members
7. Pre-Application Discussions
8. Post-Submission Discussions
9. Planning Appeals
10. Planning Enforcement
11. Site Visits
12. Nominated Member Role
13. Pre-meetings
14. Public Speaking at Meetings
15. Social Media
16. Council Officers
17. Decision Making
18. Member Training and Awareness

Background and Introduction

This Planning Code of Good Practice reflects the requirements of the Localism Act 2011, the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 and the Council's Members' Code of Conduct which is set out in the Constitution.

Planning has a positive and proactive role to play in balancing social, economic and environmental needs in order to achieve sustainable development. Planning decisions often affect land and property interests, communities and the wider public interest. It is therefore essential that planning decisions are made openly, impartially, with sound judgement and for justifiable planning reasons.

This Code sets out how Members can get involved in planning in a fair, impartial and transparent way.

The aim of this Code is to ensure that there are no grounds for suggesting that those participating in the determination of a planning decision were biased, that the decision itself was unlawful, irrational or procedurally unfair, or that the integrity of the Council's decision-making has been compromised.

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Definitions of interests referred to below are given in the Members' Code of Conduct, Part 5 of the Constitution.

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 (including the determining planning committee or board, Cabinet and full Council, as applicable) 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, planning appeals, pre-application discussions, post-submission contact and policy issues.

This Code should be read alongside the Council's Planning Scheme of Delegation and the statutory national scheme of delegation for planning functions as set out in the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. From 31 October 2026, certain categories of planning application must be determined by officers, and other applications may only be referred to the Development Control and Regulatory Board (hereinafter referred to as 'the Board') where the requirements of the national scheme of delegation and the Council's local referral arrangements are met.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early from the Monitoring Officer, and preferably well before any meeting takes place.

For the purposes of this Code:

"Chief Planning Officer" means the officer designated by the Director of Growth, Environment and Transport as the Council's chief officer responsible for the exercise of planning functions for the purposes of the Planning Scheme of Delegation, or any officer authorised to act in that capacity.

"Nominated Member" means the Chair of the Board, or where the Chair is unavailable, has an interest in the application, is the applicant, or is otherwise unable properly to participate, the Vice Chair of the Board or where the Vice Chair is also unavailable or unable properly to participate, the relevant Board Spokesperson, or such other trained member of the Board.

"Nominated Officer" means the Chief Planning Officer, or where the Chief Planning Officer is unavailable, has an interest in the application, is the applicant, is involved in the applicant or promoter function, or is otherwise unable properly to participate, such substitute officer as is identified in accordance with the Council's planning delegation arrangements.

"Own-Interest Application" means an application made by the Council, or by an officer or Member of the Council, or an application in which the Council, or any of its officers or Members, has an interest.

"Schedule 1 Application" means an application which, under the national scheme of delegation, must be determined by officers unless it falls within the separate provisions for Own-Interest Applications.

“Schedule 2 Application” means an application which is presumed to be determined by officers, but which may be referred to the Board only where the statutory referral criteria are met and the Nominated Member and Nominated Officer agree referral.

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.

In the event of any inconsistency between this Planning Code and the Members’ Code of Conduct, the Members’ Code of Conduct shall prevail.

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. Role and Conduct of Members and Officers

Members and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole. Members are accountable through democratic processes and must act in the wider public interest.

Officers carry out the Council’s planning functions in accordance with the law, the Constitution, delegated powers and their professional duties. Planning officers must exercise professional independence in the advice and recommendations that they provide.

Members must not put pressure on officers to reach a particular planning conclusion, make a particular recommendation, or handle a planning matter in a particular way. This does not prevent Members from asking questions or submitting views. Any such views on a planning matter should, where material, be provided in writing so that they may be placed on the planning file and considered transparently.

Mutual trust, respect and understanding between Members and officers are essential and must not be abused or compromised.

3. 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.

APPENDIX C

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.

In considering whether it is appropriate for you to be involved in a matter, you should ask yourself how a reasonable member of the public, knowing all the relevant facts, would view your participation.

A. Registerable Interests (those you have included in your register of interests in accordance with the Members' 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 decide 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.

APPENDIX C

Do ask yourself whether the financial interest or wellbeing of yourself, or your friend/relative/close associate, is affected to a greater extent than the financial interest or wellbeing of the majority of inhabitants of the area affected by the decision, and whether a reasonable member of the public knowing all the facts would believe that this would affect your view of the wider public interest.

Where you have a Disclosable Pecuniary Interest, you must comply with the Members' Code of Conduct and the Localism Act 2011. In particular, unless a lawful dispensation has been granted, you must not participate in discussion or voting on the matter and must withdraw from the room while the matter is considered. Failure to register or properly act on a Disclosable Pecuniary Interest may amount to a criminal offence.

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.

Where an application is an Own-Interest Application, any Member who is the applicant, has an interest in the application, or has been involved in preparing, submitting or advocating the proposal, must seek advice at the earliest opportunity and must not take part in any decision on whether the application should be referred to the Board or in the determination of the application, unless advised otherwise by the Monitoring Officer.

Where the Nominated Member has an interest in an application, or where the application is made by or involves the Nominated Member, the Council's substitute arrangements must be used.

4. Bias: Predetermination and Predisposition in the Planning Process

Predetermination is also referred to as "fettering discretion". It is not the same as predisposition. 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. Some Members may be elected in part because of those views. However, if you become involved in decision-making as a member of the Board then you must be clear that you are prepared to reconsider your position in the light of all the evidence and arguments.

It is not enough simply to say that you have an open mind; you must act in a way which demonstrates that you are willing to listen to all material planning considerations and change your mind if persuaded.

As an elected Member involved in a planning matter—

- **don't** predetermine 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;

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- **do** 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;
- **do** take account only of material planning considerations and disregard matters that are irrelevant to the legal context at hand.

If you have predetermined the application:

- **don't** participate in the determination of the matter;
- **don't** speak or vote on the proposal;
- **do** consider whether you should also withdraw from the meeting during consideration of that **application**;
- **do**, if you decide to stay in the meeting, explain that you do not intend to speak or vote because you have, or could reasonably be perceived as having, predetermined the matter, so that this may be recorded in the minutes.

5. Applications Submitted by the Council, Members or Officers

Applications submitted by the Council, Members or officers are legitimate, but they must be handled in a way that avoids any appearance of bias, favouritism or predetermination.

Proposals for the Council's own development shall be treated no differently from any other application. Any Member who has been significantly involved in the preparation, submission or promotion of such a proposal should consider carefully whether it is appropriate for them to take part in determining the application. If not, they may, where lawful and appropriate, address the Board in the relevant public speaking slot but should not participate in determination.

A Member or officer submitting their own application, or acting as agent or representative in relation to a planning matter with the Planning Authority, must take no part in the processing of that application.

Where such an application is considered by the Board, any Member concerned must comply with the requirements of the Members' Code of Conduct concerning declarations of interest and participation.

6. Lobbying of and by Members

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 accepted as part of the democratic process, but if it oversteps the mark it can call into question the impartiality and integrity of Members and place decisions at risk of complaint or challenge.

A. Lobbying of Members

- **Do** remember that your overriding duty is to the whole community and that 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 formal consideration of the matter, 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** pass on any representations, correspondence, plans or other lobbying material you receive to the planning service at the earliest opportunity.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal.
- In the interests of openness and transparency, members of the Board should declare at the meeting any significant lobbying to which they have been subject on the relevant item.
- Members must not seek to accelerate or delay the handling of an application for personal or political convenience, or in response to lobbying.

Member representations about whether an application should be considered by the Board may be made through the Council's published referral arrangements. However, a request from a local Member, parish council, town council, applicant, objector or other interested party does not require referral to the Board. It may only trigger consideration of whether the relevant statutory referral test is met.

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.
- **Don't** discuss how to vote on a planning proposal at a political group meeting or lobby other members to do so.
- **Do** cease to lobby a Member if it appears there is a risk that they will feel subject to pressure as to how they vote.
- Members of the Board should not lead or act as spokesperson for an organisation whose primary or regular purpose is to lobby to promote or oppose planning proposals where that would or might reasonably appear to compromise impartiality.

Members must not seek to recreate a call-in arrangement, objection-number trigger, political group instruction or other mechanism which has the effect of requiring an application to be referred to the Board outside the national scheme of delegation.

Members, officers and other persons may make representations about a planning matter only through the Council's published procedures and, where relevant, by reference to material planning considerations and the statutory referral criteria. No member, officer or other person shall improperly lobby, pressure, direct or seek to procure a commitment from the Nominated Member, the Nominated Officer or any officer exercising delegated planning powers as to whether an application should be referred to the Board or how an application should be determined. Any improper lobbying, pressure or attempted direction shall be recorded and reported to the Monitoring Officer where appropriate.

7. Pre-Application Discussions

Discussions between potential applicants and the Council before an application is submitted can be beneficial and are encouraged when undertaken transparently and properly.

Members should not arrange or attend pre-application meetings outside the Council's normal processes. Where a pre-application meeting involving Members is appropriate, it should be arranged through officers and attended by a planning officer throughout.

At the outset of any such meeting, it should be made clear that the discussion will not bind the Council to any particular decision, that any views expressed are provisional only, and that Members must retain an open mind.

Members should not become involved in negotiations on planning merits or obligations; these are matters for officers. A note of any such meeting should be made and placed on the planning file.

8. Post-Submission Discussions

Once a planning application has been submitted and remains to be determined, Members of the Board should not usually be involved in discussions with the applicant, agent, supporter or objector other than through formal Council procedures.

If significant contact nevertheless occurs, the Member should inform the Chief Planning Officer so that the nature and purpose of the contact can be recorded on the planning file. Any material received should be passed to officers promptly.

Any significant post-submission contact should be declared at the meeting which considers the application.

9. Planning Appeals

Members may attend planning appeal hearings and inquiries, and may attend as ward members or as members of the public. Members wishing to participate actively should first discuss this with the Chief Planning Officer.

A member of the Board does not represent the Board at an appeal unless expressly authorised as part of the Council's case. The Council's case at appeal will be presented on planning merits and in accordance with the decision made by the Council.

10. Planning Enforcement

It is legitimate for Members to bring suspected breaches of planning control to the attention of the Chief Planning Officer so that they may be investigated.

Members must not seek preferential treatment for matters they have raised. Enforcement action must be taken in accordance with the law, the Council's enforcement policy and service priorities.

11. Site Visits

Do attend official site visits organised by the Council.

Do treat the site visit only as an opportunity to seek information and to observe the site.

Do ask officers questions or seek clarification on factual matters which are relevant to the inspection.

Do have regard to the Council's Site Visit Protocol and any planning committee procedures dealing with attendance, conduct and reporting on site visits.

Don't get involved in discussion with the applicant/developer or any members of the public who may be present during the visit.

Don't express firm opinions or views or declare the way you intend to vote.

12. Nominated Member Role

The Chair of the Board will ordinarily act as the Nominated Member for the purposes of the Council's referral arrangements. The Vice Chair will act as first substitute where the Chair is unavailable or unable properly to participate. Where both the Chair and Vice Chair are unavailable or unable properly to participate, the relevant Board Spokesperson, or such other trained member of the Board may act as substitute Nominated Member.

Where acting as Nominated Member, a Member must:

- apply the relevant statutory referral criteria and the Council's published referral arrangements;
- consider only relevant material planning considerations and the statutory guidance;
- avoid political, group, electoral or administrative considerations;
- ensure that any Member representations taken into account are transparent, recorded and advisory only;
- not treat local opposition, local support, publicity or political controversy as sufficient in itself to justify referral;
- give clear, succinct reasons for agreeing or not agreeing that an application should be referred to the Board; and
- not delegate, fetter or abdicate their judgement to another Member, political group or majority view.

13. Pre-Meetings

Briefing meetings for the Chair and Spokespeople of the Board are held to facilitate the smooth running of Board meetings. Discussion will be limited to procedural issues such as the organisation of site visits, arrangements for public speaking and ensuring that all relevant paperwork and information is available. They must not be used to determine whether an application should be referred to the Board unless the meeting forms part of the Council's published arrangements for applying the national scheme of delegation.

- **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 planning briefing meetings or political group meetings.
- **Don't** ever use the political whip on a planning matter.
- **Don't** use Board briefings, political group meetings or informal discussions to pre-determine whether an application should be referred to the Board or how any Member should vote if it is referred.

14. Public Speaking at Meetings

The Council has a procedure to allow members of the public to make representations at meetings of the Board.

- **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 planning considerations.
- **Don't** allow applicants or members of the public to communicate with you during the Board's proceedings (orally, in writing, or by social media) as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking, including any rules on registration, speaking rights, adjourned meetings and variation of speaking rights.

15. Social Media

Do be aware of the power of social media posts or re-posting and be careful not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in decision-making on behalf of the authority.

Don't participate in social media or exchanges by posting, texting or messaging as a member of the Board during the Board's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

16. Council Officers

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Under the national scheme of delegation, Members must recognise that many planning applications must be, or are presumed to be, determined by officers. Members may make representations through the proper channels, but must not seek to direct, instruct, pressure or otherwise influence an officer as to the outcome of a delegated planning decision.

- **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 Planning Officer which may be incorporated into any committee 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 Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with their professional duties and any appropriate officer and professional codes of conduct.

Where Members submit views to officers on a planning matter, those views should, where material, be provided in writing so that they may be placed on the planning file.

17. Decision Making

Before determining an application, Members should be satisfied that the application is properly before the Board under the Council's Planning Scheme of Delegation and the national scheme of delegation. Where there is any doubt, advice should be sought before the application is determined.

- **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.
- **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, you clearly identify and understand the planning reasons leading to this conclusion. Where a decision is taken contrary to officer recommendation, reasons must be given prior to the vote and recorded.

Members must also comply with any procedural requirements contained within the Council's planning committee procedures, including those relating to late material, voting, contrary decisions, departures, deferrals and attendance requirements for voting.

18. Member Training and 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 Council as planning authority.

The Council has determined that all elected Members **must attend a planning training session prior to being involved in the determination of planning decisions**. Members will also need to comply with any national training requirements that may be introduced.

Members of the Board, substitute Members, the Nominated Member and any substitute Nominated Member **must** also undertake training on the national scheme of delegation, the Council's revised Planning Scheme of Delegation, the referral gateway, Own-Interest Applications and the continuing requirements of this Code. 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.

Members may not participate in planning decision-making at Board meetings unless they have attended mandatory planning training approved by the Council. This requirement applies equally to substitute Members.

In addition to induction training, members of the Board and substitutes must attend refresher training at such intervals as the Council may require, and in any event should attend refresher training at least every two years, or more frequently if recommended by the Monitoring Officer. Members will need to comply with any national training requirements that may be introduced. Members should also endeavour to attend any additional specialist planning or probity training provided by the Council.

Interpretation

This Code should be read alongside the Council's planning committee procedures, public speaking arrangements, site visit protocol and any technical briefing procedure. Members must comply with these procedures when participating in the planning process.

References in this Code to the 2026 Regulations include those Regulations as amended, re-enacted or replaced from time to time, and references to statutory guidance include any statutory guidance issued or revised in connection with those Regulations.

LEICESTERSHIRE COUNTY COUNCIL

GUIDANCE FOR THE NOMINATED MEMBER AND NOMINATED OFFICER

Assessment of whether a Schedule 2 or Own-Interest application should be referred to the Development Control and Regulatory Board under the national scheme of delegation for planning functions

1. PURPOSE AND STATUS

This guidance is intended to assist the Nominated Member and Nominated Officer in applying the referral test for planning applications that are capable of being referred to the Development Control and Regulatory Board (“DCRB”) under the Council’s Planning Scheme of Delegation, including Schedule 2 applications and Own-Interest applications. It is intended to promote consistency, transparency and lawful decision-making. It should be read alongside the Council’s Constitution, the Council’s Planning Scheme of Delegation, the Planning Committee/DCRB procedures and the statutory guidance on the national scheme of delegation. The national framework requires planning committees to focus on the proposals that matter to an area, with decisions on other, often more minor and technical cases made by officers, and proceeds on the basis that officer delegation is the default position unless the relevant test for referral is met.

References in this guidance to the 2026 Regulations include those Regulations as amended, re-enacted or replaced from time to time, and references to statutory guidance include any statutory guidance issued or revised in connection with those Regulations.

For the purposes of this guidance:

- “Nominated Member”, “Nominated Officer”, “Own-Interest application”, “Schedule 1 application” and “Schedule 2 application” have the meanings given by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (“the 2026 Regulations”).
- The “**Chief Planning Officer**” shall mean “the officer designated by the Director of Growth, Environment and Transport as the Council’s chief officer responsible for the exercise of planning functions for the purposes of the Planning Scheme of Delegation, or any officer authorised to act in that capacity”.
- The **Nominated Member** will be the Chair of DCRB. Where the Chair is unavailable, has an interest in the application, is the applicant, or is otherwise unable properly to participate in the referral decision, the Vice Chair of DCRB will act as substitute Nominated Member. Where the Vice Chair is also unavailable or unable properly to participate, the relevant DCRB Spokesperson, or such other trained member of DCRB, will act as substitute Nominated Member.

- The **Nominated Officer** shall be the Chief Planning Officer or such other officer authorised to act in that capacity in accordance with the Council's planning delegation arrangements.

2. CORE RULE

A Schedule 2 application should be referred to DCRB **only** where the Nominated Member and Nominated Officer agree that referral is necessary and that at least one of the statutory referral criteria is met. If they do not agree that referral is necessary, the application remains for determination under delegated powers.

An Own-Interest application may be referred to DCRB where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to the statutory guidance, the nature of the Council's interest, the nature and scale of the development, and the need for transparency and public accountability.

For Schedule 2 applications, the relevant test is, in the view of the Nominated Member and Nominated Officer, whether the proposal raises:

- one or more issues of economic, social or environmental significance to the local area; or
- one or more significant planning matters having regard to the development plan and any other material considerations.

3. OVERRIDING PRINCIPLES

- Delegation is the default position unless the referral test is positively met, or, in the case of an Own-Interest application, referral is justified having regard to the statutory guidance and the need for transparency and public accountability.
- The question is not whether the application is controversial, unpopular, politically sensitive, or has generated local correspondence. The question is whether it raises issues of the kind and degree described in the test, or whether, in an Own-Interest application, the Council's interest and the need for openness, transparency and public accountability justify DCRB referral.
- The exercise must be based on planning relevance, not political preference or administrative convenience.
- Reasons must be recorded succinctly and clearly on the file and in the delegated or DCRB report.
- Any improper lobbying, pressure or attempt to influence the exercise of judgement outside the proper process of the Nominated Member, Nominated Officer or other officer exercising delegated planning functions should be reported to the Monitoring Officer. Transparent and recorded member representations addressing the statutory referral criteria may be taken into account but must not be treated as determinative.

4. MATTERS WHICH MUST NOT BE TREATED AS REASONS FOR REFERRAL

As a matter of local good governance, the following should not, without more, be treated as indicators of “significance”:

- the volume of objections or support;
- a request from a local member, parish/town council alone;
- the fact that the application is politically controversial;
- pressure arising from local campaigns or publicity;
- whether the committee agenda is light or heavy;
- the historical behaviour or reputation of the applicant or developer;
- pressure exerted on the Chair / Nominated Member or senior officers and any substitutes.

These are all matters which risk introducing non-planning considerations or political expediency into the process. They may, where relevant, trigger consideration of whether the referral test should be applied, but they do not themselves satisfy the test for referral.

5. SUGGESTED TWO-STAGE LOCAL ASSESSMENT

STAGE 1 – ADMINISTRATIVE / LEGAL GATEWAY CHECK

- Is the application Schedule 1? If yes, it must be delegated.
- Is it Schedule 2? If yes, apply the significance test below, where the application has been brought forward for consideration by the Nominated Member and Nominated Officer under the Council’s local arrangements
- Is it an Own-Interest Application? If yes, apply the Council’s own-interest criteria and consider whether openness, transparency, public accountability, the nature of the Council’s interest, the identity of the applicant or interested person, and the nature and scale of the development justify DCRB referral.

The Council may determine locally whether all Schedule 2 applications, or only specified categories of Schedule 2 applications, are brought forward for consideration by the Nominated Member and Nominated Officer. A request from a local member, parish council, town council or other consultee may trigger consideration of whether the referral test should be applied, but does not itself require referral to DCRB.

STAGE 2 – SIGNIFICANCE ASSESSMENT

Ask the following questions in order:

A. Economic significance

Does the proposal raise one or more of the following economically significant issues for the local area:

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- major implications for the delivery of strategic infrastructure or public services;
- substantial implications for mineral, waste or transport capacity across more than one locality;
- significant implications for employment land, strategic freight, or the operation of a key public facility;
- a development outcome with significant consequences extending materially beyond the immediate site.

B. Social significance

Does the proposal raise one or more of the following socially significant issues for the local area:

- clear significant implications for the operation, accessibility or resilience of important community services;
- significant effects on a settlement or wider community rather than only on immediately adjoining occupiers.

C. Environmental significance

Does the proposal raise one or more of the following environmentally significant issues for the local area:

- significant implications for environmental effects which are central to the planning merits of the case;
- strategic or area-wide implications of significance for landscape, ecology, traffic, amenity, flood risk, heritage or cumulative effects;
- environmental impacts where the significance extends beyond ordinary site-specific effects commonly addressed through routine delegated decisions.

D. Significant planning matters

Does the proposal raise one or more of the following significant planning matters having regard to the development plan and other material considerations:

- a genuinely significant issue about the interpretation, application or weight of development plan policy;
- tension between competing development plan policies or a material planning judgement of unusual weight or difficulty;
- a proposal that appears to raise a substantial question about whether the development plan should be departed from;
- a case where a material planning objection raises issues of real substance rather than routine or repetitive points, including an unresolved objection from a statutory consultee which raises a material planning issue of substance and is not capable of being satisfactorily addressed through conditions, obligations or further information.

E. Own-interest applications

For Own-Interest applications, the Nominated Member and Nominated Officer should consider whether referral is appropriate having regard to the statutory guidance and the Council's own-interest criteria. Relevant considerations may include the nature of the Council's interest, whether the applicant or interested person is the authority, a member or an officer, the nature and scale of the development, the degree of public interest, and whether DCRB determination is appropriate to secure transparency and public accountability.

6. WORKING THRESHOLD FOR REFERRAL

For Schedule 2 applications, referral should occur only where, having reviewed the officer summary and relevant papers, the Nominated Member and Nominated Officer are both satisfied that the application raises planning, economic, social or environmental issues of more than routine site-specific importance, such that member determination is reasonably necessary in the public interest.

For Own-Interest applications, referral should occur where the Nominated Member and Nominated Officer are satisfied that DCRB determination is appropriate having regard to the statutory guidance, the Council's own-interest criteria, the nature of the Council's interest and the need for transparency and public accountability.

7. SUGGESTED RECORDING TEMPLATE

A one-page referral assessment form should be completed by officers and signed off by the Nominated Officer and Nominated Member.

A. Basic information

- Application reference
- Site
- Description
- Application type
- Schedule 1 / Schedule 2 / Own-Interest
- Officer preparing summary
- Date

B. Initial classification

- Is this a Schedule 1 application? Yes / No
- Is this a Schedule 2 application? Yes / No
- Is this an Own-Interest Application? Yes / No

C. Significance checklist

- Economic significance to the local area - Schedule 2 applications
- Social significance to the local area - Schedule 2 applications

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- Environmental significance to the local area - Schedule 2 applications
- Significant planning matters having regard to the development plan / material considerations - Schedule 2 applications
- Own-Interest considerations, including the nature of the Council's interest, transparency and public accountability

D. Matters disregarded

- Confirm that the decision has not been based on amount of local correspondence alone;
- Confirm that the decision has not been based on local member request alone;
- Confirm that the decision has not been based on media attention / publicity;
- Confirm that the decision has not been based on DCRB workload;
- Confirm that the decision has not been based on improper lobbying, pressure, political expediency or any attempt to influence the outcome outside the proper process;
- Confirm that the decision has not been based on historic views about the applicant / developer.
- Confirm that any member, parish council, town council or consultee request has been treated only as a trigger for consideration, and not as a reason requiring referral;
- Confirm that, where the application remains delegated, no arrangement has been made which limits the discretion of the officer responsible for determining the application.

E. Outcome

- **Referred to DCRB**

Or

- **Remains delegated**

(A gateway decision may be revisited before determination where material further information, amendments to the proposal, changes in consultee position, or other new material planning considerations arise after the original gateway decision. This may include:

- (a) an application previously referred to DCRB remaining delegated where the issue which justified referral no longer meets the statutory referral criteria; or
- (b) an application previously remaining delegated being referred to DCRB where new matters of economic, social or environmental significance to the local area, or significant planning matters having regard to the development plan and other material considerations, are raised later in the application process and the Nominated Member and Nominated Officer agree that the statutory referral criteria are met.

Any revised gateway decision, the reasons for it, and the material change in circumstances relied upon must be recorded).

F. Recorded reason

If referred:

“This is a Schedule 2 application. It is being reported to the Development Control and Regulatory Board because the Nominated Member and Nominated Officer agree that referral is necessary as the application raises [insert succinct reason(s), by reference to economic, social or environmental significance to the local area, or significant planning matters having regard to the development plan and other material considerations]”

OR

“This is an Own-Interest Application. It is being reported to the Development Control and Regulatory Board because the Nominated Member and Nominated Officer agree that referral is appropriate having regard to [insert succinct reason(s), for example the nature of the Council’s interest, the nature and scale of the development, transparency and public accountability].”

If delegated:

“This is a Schedule 2 application. It will be determined under delegated powers because the Nominated Member and Nominated Officer do not agree that referral to the Development Control and Regulatory Board is necessary. The application does not raise issues of sufficient economic, social or environmental significance to the local area, nor significant planning matters of a kind requiring member determination.”

OR

“This is an Own-Interest Application. It will be determined under delegated powers because the Nominated Member and Nominated Officer do not agree that referral to the Development Control and Regulatory Board is appropriate, having regard to the statutory guidance, the Council’s own-interest criteria, the nature of the Council’s interest, the nature and scale of the development, and the need for transparency and public accountability.”

8. OPERATIONAL SAFEGUARDS

- **Officer summary first** – every candidate case should come to the Nominated Member and Nominated Officer with a short, written officer note identifying the possible basis for referral, including whether the case is a Schedule 2 application or an Own-Interest application and which test is being applied.
- **Member representations and lobbying** — transparent and recorded representations may be considered where they address the relevant referral criteria. However, informal lobbying, pressure on the Nominated Member or Nominated Officer, or attempts to influence the planning merits outside the proper process should be logged and referred to the Monitoring Officer where appropriate.
- **Other member involvement** – other members may submit written planning reasons as to whether a Schedule 2 application should be considered for referral. Their views may be taken into account but are advisory only. The Nominated Member and Nominated Officer must apply the relevant test themselves and must not delegate, fetter or abdicate their judgement to other members or to any majority view.

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- **Officer discretion** — nothing in this guidance authorises members, panels or any other persons to direct, predetermine or otherwise limit the discretion of the planning officer responsible for determining an application under delegated powers.
- **Prompt, recorded decision** – the referral decision should be recorded on the file with the date and the names of both decision-makers.
- **Substitute arrangements** – substitutes should be activated where one of the nominated roles is unavailable, to avoid delay or single points of failure.
- **Annual review** – the Council should periodically review referral decisions to check consistency, the operation of the Schedule 2 and Own-Interest tests, the treatment of member requests, and any issues arising from lobbying or member involvement, and refine the written guidance if needed.

SOURCES INFORMING THIS GUIDANCE:

This guidance has been informed by:

- (1) POS Good Practice Guidance Note Appendix A: Planning Scheme of Delegation (June 2026)
- (2) MHCLG statutory guidance “Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England” published on 1 June 2026

SCHEDULE OF PROPOSED PLANNING GOVERNANCE AND DELEGATION CHANGES

Appendix to report to Constitution and Ethics Committee – 10 September 2026

Purpose of Schedule

This schedule summarises the principal changes proposed to the Council's planning governance, Development Control and Regulatory Board terms of reference, officer delegations, Members' Planning Code of Good Practice and gateway guidance for the Nominated Member and Nominated Officer. It is intended to help members identify what is being changed, the purpose of the change and the proposed approval route.

Overall Effect of the Proposed Changes

Area	Summary of change	Purpose / effect
National scheme of delegation	Aligns the Council's planning decision-making arrangements with the national scheme of delegation and associated statutory guidance.	Ensures that applications which must be determined by officers, or are presumed to be determined by officers, are dealt with through the correct decision-making route.
DCRB role	Retains DCRB as the Council's non-executive planning decision-making body for matters which may lawfully be reported to it.	Moves away from automatic or locally triggered referral routes and confirms that DCRB will determine matters only where the statutory and local gateway arrangements permit referral.
Officer delegation	Makes officer determination the default position for Schedule 1 applications and for Schedule 2 applications unless the gateway test for DCRB referral is met.	Reduces risk that planning decisions are taken by the wrong decision-maker after commencement of the national scheme.
Nominated Member / Nominated Officer gateway	Creates local guidance and recording arrangements for deciding whether Schedule 2 or Own-Interest applications should be referred to DCRB.	Promotes consistency, transparency and clear recorded reasons for referral and non-referral decisions.
Planning Code	Updates the Members' Planning Code of Good Practice to reflect the national scheme, member/officer roles, lobbying safeguards, own-interest applications and training requirements.	Protects probity, fairness and transparency in planning decision-making.
Approval route	DCRB receives the report for information and comment; Constitution and Ethics Committee considers and recommends the constitutional amendments to County	Recognises that the non-executive planning functions remain Council functions arranged through the

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Area	Summary of change	Purpose / effect
	Council; County Council approves the constitutional amendments.	Constitution, while ensuring DCRB is briefed on operational implications.
Cabinet-derived delegations	Any substantive amendment to a Cabinet-derived executive-function delegation should be confirmed or approved through Cabinet or the Leader's executive delegation arrangements if required.	Avoids Full Council purporting to amend a function which properly sits with the Executive.

Part 3 – Development Control and Regulatory Board Terms of Reference

Change	Summary	Reason
Planning functions subject to national scheme	Updates DCRB's planning and development control functions so that they are expressly subject to the 2026 Regulations, statutory guidance, the Council's Constitution and the planning elements of the Scheme of Delegation.	Ensures the Board's terms of reference reflect the new national decision-making framework.
Schedule 2 applications	Confirms that DCRB may determine a Schedule 2 application only where the Nominated Member and Nominated Officer agree that referral is necessary and that at least one statutory referral criterion is met.	Prevents local member, parish/town council, objection-number or other informal triggers from requiring DCRB determination.
Own-Interest applications	Provides for Own-Interest applications to be referred to DCRB where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to statutory guidance, transparency, propriety and public accountability.	Ensures the Council's own applications or connected-interest applications are handled with appropriate separation and transparency.
Pre-application / pre-determination presentations	Retains provision for DCRB to hear pre-application or pre-determination presentations where arranged under Board procedures.	Allows member awareness and questioning in appropriate cases without creating a separate referral trigger.

Part 9 – Officer Delegations: Schedule of Changes by Power

The table below identifies the main Part 9 planning powers affected by the proposed amendments. It distinguishes new powers, substantive amendments, renumbering and retained powers, and records the apparent original approval body where known from the existing delegation schedule.

Power	Original approval body	Nature of proposed change	Practical effect / report note
Power 29 – Strategic Planning Consultations	Cabinet	Substantive amendment. Replaces the current local member/DCRB/Cabinet referral wording with referral to members where considered necessary by the Chief Planning Officer in accordance with the Constitution and the planning elements of the Scheme of Delegation.	Cabinet-derived consultation power. Any substantive amendment to an executive-function delegation should be confirmed or approved through Cabinet or the Leader’s executive delegation arrangements if required.
Power 30 – Planning Scheme of Delegation and Chief Planning Officer Functions	New power	New overarching planning delegation to identify the Chief Planning Officer function and provide for officer determination of Schedule 1, Schedule 2 and Own-Interest applications, publication and maintenance of planning delegation arrangements, sub-delegation and referral where appropriate.	Main new officer delegation required to operate the national scheme and gateway process.
Power 30A – Rights of Entry	DCRB	Renumbering only. Existing Power 30 becomes Power 30A to accommodate new Power 30.	No substantive change identified.
Power 31 – Development Management – Town and Country Planning	DCRB	Substantive amendment. Removes the previous Schedule 1 consultation wording, retains Article 4 direction powers and adds a wider officer power for development management matters falling to officers under the 2026 Regulations or the planning elements of the Scheme of Delegation.	DCRB-originating non-executive planning delegation. Suitable for DCRB information/comment and County Council constitutional approval.
Power 32 – Strategic Planning Consultations (Mineral and Waste)	Cabinet	Substantive amendment. Retains the power to respond to strategic consultations from Mineral and Waste Planning Authorities and adds referral to members where considered necessary by the Chief Planning Officer in accordance with the	Cabinet-derived consultation power. Same Cabinet caveat as Power 29.

APPENDIX E

Power	Original approval body	Nature of proposed change	Practical effect / report note
		Constitution and the planning elements of the Scheme of Delegation.	
Power 33 – Amendment of Planning Conditions	DCRB	Substantive amendment. Replaces the narrower power to make non-substantial amendments to conditions imposed by DCRB with a wider delegation to settle wording of the Board's decision, including conditions, informatives, planning obligation wording, reasons for refusal, non-material or minor amendments, and changes arising from legislation or policy, provided the overall principle of the Board decision is not altered.	Gives officers sufficient flexibility to finalise decisions consistently with the Board's resolution without changing the substance of the decision.
Power 34 – Works to Trees	DCRB	Substantive amendment. Removes the automatic local member request route and aligns tree-related determinations with the 2026 Regulations and the planning elements of the Scheme of Delegation.	Removes any local call-in style mechanism inconsistent with the national scheme.
Power 35 – Access to Properties to Inspect Trees Protected by Leicestershire County Council Tree Preservation Orders	DCRB	No substantive amendment identified.	Retained for completeness if included in Appendix B.
Power 37 – Power to Require Information as to Interests in Land	DCRB	No substantive amendment identified.	Retained for completeness if included in Appendix B.

Nominated Member and Nominated Officer Gateway Guidance

Change	Summary	Effect
Gateway assessment	Introduces guidance for deciding whether Schedule 2 or Own-Interest applications should be referred to DCRB.	Ensures a structured and recorded assessment before any referral to DCRB.

APPENDIX E

Change	Summary	Effect
Schedule 2 significance test	Referral occurs only where the Nominated Member and Nominated Officer agree that the statutory criteria are met.	Confirms that officer determination is the default unless the referral test is positively met.
Own-Interest assessment	Allows referral where appropriate having regard to statutory guidance, the Council's interest, the nature and scale of the development, transparency and public accountability.	Supports propriety and separation in Council-interest cases.
Matters disregarded	Makes clear that volume of objections, local member/parish requests, publicity, political controversy, committee workload and historic views about the applicant/developer must not, without more, justify referral.	Reduces risk of irrelevant considerations affecting the gateway decision.
Recording template	Provides for classification, significance checklist, matters disregarded, outcome and reasons to be recorded.	Creates a clear audit trail for decisions to refer or not refer.

Members' Planning Code of Good Practice

Area	Summary of proposed change	Purpose / effect
Member and officer roles	Clarifies that officers exercise planning functions in accordance with law, the Constitution, delegations and professional duties, and that members must not pressure officers to reach a particular planning outcome.	Supports officer independence and lawful decision-making.
Interests and Own-Interest applications	Strengthens guidance on member/officer interests and own-interest applications, including substitute arrangements for the Nominated Member.	Reduces risk of bias, perceived bias or improper involvement.
Lobbying	Updates lobbying provisions to reflect that member or parish requests cannot require referral to DCRB and	Aligns member conduct expectations with the national scheme and gateway process.

APPENDIX E

Area	Summary of proposed change	Purpose / effect
	that improper lobbying or pressure must be avoided and recorded where appropriate.	
Pre-application and post-submission contact	Adds clearer expectations for member involvement before and after submission of applications.	Protects transparency and avoids perception of predetermination or preferential treatment.
Decision-making and training	Updates decision-making and training requirements, including training on the national scheme, the gateway process, Own-Interest applications and the revised Planning Code.	Ensures members involved in planning decisions understand the revised legal framework.

Approval Route and Legal Basis

Issue	Summary
Council's authority for non-executive planning delegations	The proposed route does not involve County Council revisiting or overturning any individual DCRB decision. It involves County Council approving revised prospective arrangements for the discharge of planning functions under the Constitution. The non-executive planning functions remain functions of the Council, even where they have previously been arranged to be discharged through DCRB or through officer delegations.
DCRB role in the process	DCRB should receive the report for information and comment because the changes will materially affect the way the Board operates. However, DCRB approval is not required before County Council may approve the revised constitutional scheme for future non-executive planning functions.
Cabinet-derived delegations	Where a delegation originated from Cabinet, the issue is whether the underlying function is an executive function, or an executive element of a mixed/local choice function. Any substantive amendment to a Cabinet-derived executive-function delegation should be confirmed or approved through Cabinet or the Leader's executive delegation arrangements if required.

MEMBER BRIEFING NOTE: GOVERNMENT PLANNING REFORMS AND DCRB GATEWAY ARRANGEMENTS

What is changing?

- The national scheme of delegation for planning functions comes into force on 31 October 2026.
- Officer delegation becomes the default position for many planning applications.
- DCRB will continue to determine planning matters, but only where the national scheme and the Council's local arrangements allow referral.
- Local member requests, parish or town council requests, objection numbers, local controversy or publicity will not by themselves require an application to be reported to DCRB.

What is the gateway?

The gateway is the local process for deciding whether a Schedule 2 or Own-Interest application should be referred to DCRB. The Nominated Member and Nominated Officer must both agree that referral is necessary or appropriate. Where they do not agree, the application remains delegated to officers.

Who are the nominated roles?

- The Chair of DCRB is proposed to act as the Nominated Member.
- The Vice Chair, relevant Board Spokesperson or another trained Board member may act as substitute where the Chair is unavailable, has an interest, is the applicant or is otherwise unable properly to participate.
- The Chief Planning Officer, or another authorised officer, is proposed to act as the Nominated Officer.

What should members do?

- Ensure any views about referral are provided through the published arrangements and are based on material planning considerations and the statutory referral criteria.
- Avoid putting pressure on officers, the Nominated Member or the Nominated Officer about whether an application should be referred or how it should be determined.
- Avoid appearing to predetermine matters, including through social media, political group discussions or informal lobbying.
- Attend required training on the national scheme, revised Planning Scheme of Delegation, gateway process, own-interest applications and Planning Code.

Key dates

Date	Milestone
10 September 2026	Constitution and Ethics Committee considers the proposed constitutional amendments.
14 September 2026	DCRB receives this information report and member briefing note.

23 September 2026	Proposed constitutional amendments intended to be submitted to County Council for approval.
31 October 2026	Revised arrangements intended to operate from commencement of the national scheme.

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**CONSTITUTION AND ETHICS COMMITTEE – 10 SEPTEMBER
2026**

REPORT OF THE MONITORING OFFICER

LEARNING AND DEVELOPMENT

Purpose of the Report

1. The purpose of this report is to review the Council's arrangements for Member learning and development in relation to standards and ethical governance matters and to seek the Committee's views on proposals to strengthen training, monitoring and reporting arrangements.

Policy Framework and Previous Decisions

2. At the meeting of the Constitution and Ethics Committee on 13 July 2026, members requested that the Council's member training arrangements be reviewed in the light of the proposed national reports, including training on the Members' Code of Conduct, registration and declaration of interests, social media use, the Member/Officer Protocol and the operation of the complaints process, and to bring forward proposals for future training and reporting arrangements as part of a further report to the next meeting of the Committee.

Background

3. The Council has for a number of years operated with a Member Learning and Development Strategy which has informed the provision of induction, briefing, training and development opportunities for Members.
4. The Strategy promotes the principle that Members should have access to appropriate learning and development opportunities throughout their term of office and has underpinned the Council's approach to Member induction, governance training, skills development, briefings and self-directed learning. It has also recognised the importance of training on matters such as the Members' Code of Conduct and other governance-related issues.
5. Whilst the Strategy has provided a useful framework for Member development activity, it was developed under the previous Council and has not been formally approved by the County Council or by one of its

committees. As a consequence, it does not currently have formal status within the Council's governance framework.

6. This provides an opportunity to place future Member learning and development arrangements on a clearer governance footing, including by identifying those areas of training which should be regarded as essential to the effective discharge of Members' roles and responsibilities.
7. The Strategy has not been comprehensively reviewed for some time and does not fully reflect current governance arrangements, recent developments relating to standards and ethical governance, or changes in learning methods and delivery. It will therefore be reviewed and updated to ensure that it remains relevant and provides an appropriate framework for future Member learning and development activities.

Current Arrangements

8. Following the County Council elections in 2025, Members were offered a range of induction and development opportunities, including training on the Members' Code of Conduct and the Planning Code of Conduct.
9. Attendance at certain training sessions is currently required where Members are appointed to undertake specific regulatory or quasi-judicial functions, such as planning. However, attendance at training on the Members' Code of Conduct is not currently mandatory for all Members.
10. The Members' Code of Conduct forms a key part of the Council's ethical framework. A clear understanding of the Code, together with the requirements relating to registration and declaration of interests, relationships between Members and officers and the arrangements for handling complaints, is essential to maintaining high standards of conduct and preserving public confidence in local government.
11. The Committee has recently considered amendments to the Member/Officer Relations Protocol and has also maintained oversight of the Council's arrangements for dealing with complaints concerning Member conduct. These developments reinforce the importance of ensuring that all Members receive regular and up-to-date training on standards matters.

Proposed Standards Training Session

12. Whilst many Members have undertaken training on standards matters, a number have not attended Code of Conduct training.
13. It is therefore proposed that a further in-person standards and governance training session be delivered during Autumn 2026. The session would be open to all Members but would be particularly aimed at

those who did not attend Code of Conduct training session held in May 2025.

14. It is proposed that the training should cover:
 - the Members' Code of Conduct;
 - registration and declaration of interests;
 - social media use;
 - the Member/Officer Relations Protocol;
 - the operation of the Member complaints process; and
 - practical case studies and examples arising from standards issues.
15. The session would provide Members with an opportunity to refresh their knowledge, discuss practical scenarios and receive guidance on recent developments affecting the Council's standards framework.

Mandatory Code of Conduct Training

16. Effective standards arrangements rely not only on the existence of a Code of Conduct but also on Members understanding of how its requirements apply in practice. Face-to-face training provides opportunities for discussion, challenge and consideration of practical examples which cannot easily be replicated through written guidance alone.
17. Requiring Members to attend Code of Conduct training would support the Council's wider responsibility to promote and maintain high standards of conduct. It would also help ensure a consistent baseline of understanding across the Council, particularly in relation to interests, the use of social media, Member/officer relationships and the operation of the complaints process.
18. The Members' Code of Conduct provides the overarching framework within which Members are expected to operate. Issues relating to interests, social media use, Member/Officer relations and the complaints process are closely linked to the operation of the Code and can therefore appropriately be incorporated into a training session on the Code of Conduct and standards.
19. The Committee is therefore asked to consider whether attendance at an in-person Code of Conduct training session should become mandatory for all Members following election to the Council and for any Member elected at a subsequent by-election.
20. The proposed Autumn 2026 training session would provide Members who have not previously undertaken such training with an opportunity to do so and would provide a foundation for future mandatory arrangements.

Monitoring and Reporting

21. If the Committee supports the principle of mandatory Code of Conduct training, it will also be necessary to establish clear arrangements for monitoring attendance.
22. It is proposed that attendance records be maintained by Democratic Services and that periodic reports be submitted to the Constitution and Ethics Committee identifying those Members who have not completed the mandatory training.
23. The purpose of such reporting would not be punitive. It would provide a transparent mechanism for the Committee to monitor completion rates, identify any barriers to attendance, and satisfy itself that appropriate steps are being taken to support Members in completing essential standards training. Any reporting of non-attendance should be proportionate and should distinguish between Members who have been unable to attend for good reason and those who have just not engaged with the training arrangements.

E-Learning and Future Development

24. Alongside traditional face-to-face training, the Council continues to expand the range of digital learning resources available to Members.
25. A new Elected Member Health and Safety e-learning module has recently been developed. The module provides Members with a flexible means of understanding their health and safety responsibilities and demonstrates the opportunities available through modern learning platforms.
26. E-learning can provide an effective and accessible means of supporting Member development and may be particularly useful for induction, refresher training and awareness-raising activities. However, it is considered that training relating to standards and conduct should continue to be delivered principally through face-to-face sessions given the importance of discussion, judgement and practical application.
27. As part of the review of the Member Learning and Development Strategy, consideration will be given to the appropriate balance between face-to-face training, virtual learning and e-learning provision, together with future arrangements for evaluating training effectiveness and monitoring participation.

Resource Implications

28. There are no additional financial implications arising from this report. The proposed training and review work will be met from existing officer resources.

Timetable for Decisions

29. Subject to members' views, a further report presenting an updated Member Learning and Development Strategy will be presented to a future meeting of the Constitution and Ethics Committee.

Recommendations

30. It is recommended that the Committee:
- (a) Requests officers to undertake a review of the Member Learning and Development Strategy and report back to a future meeting of the Committee;
 - (b) Supports the delivery of an in-person training session on standards and governance for elected members during Autumn 2026, covering:
 - i. The Members' Code of Conduct;
 - ii. Registration and Declaration of Interests;
 - iii. Social Media Use;
 - iv. The Protocol on Member/Officer Relations; and
 - v. The Member complaints process;
 - (c) Supports, in principle, the introduction of mandatory in-person Code of Conduct training for all elected Members following election to the Council and for any Member elected at a subsequent by-election;
 - (d) Requests that the proposed mandatory training requirement, together with arrangements for monitoring attendance and reporting non-completion, be incorporated into the revised Member Learning and Development Strategy;
 - (e) Agrees that attendance at Code of Conduct training shall be monitored by Democratic Services and that periodic reports should be submitted to the Committee to enable it to oversee completion rates and identify any further action required; and e;
 - (f) Notes the development of a new Health and Safety e-learning module for elected members and the opportunities that e-learning can provide in supporting member development.

Background Papers

31. None.

Circulation under the Local Issues Alert Procedure

32. None.

Equality Implications

33. There are no equality implications arising from the recommendations in this report. In implementing any mandatory training arrangements, regard will be had to Members' individual circumstances, accessibility requirements and the need to make reasonable adjustments where appropriate.

Human Right Implications

34. There are no human rights implications arising from the recommendations in this report. Training on the Code of Conduct, social media use and related standards issues will assist Members in understanding the balance between their rights as elected representatives, including freedom of expression, and their responsibilities under the Council's ethical framework.

List of Appendices

None.

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CONSTITUTION & ETHICS COMMITTEE – 10 SEPTEMBER 2026

REPORT OF THE MONITORING OFFICER

THE COUNCIL'S CHARITY TRUSTEE AND TRUSTEE APPOINTMENT ROLES

Purpose of Report

1. The purpose of this report is to set out the circumstances in which the Council acts, or may be asked to nominate persons to act, as charity trustee, holding trustee, custodian trustee or appointing body, and to propose a clearer governance approach for recording and managing those roles. The report asks the Committee to note the current position, to support the maintenance of a consolidated register, and to note that further reports will be required where individual trusts require decisions by the Council acting in its trustee capacity and/or in connection with requests for the Council to nominate persons to act as charity trustee.
2. The Member Briefing Note entitled "Constitution & Ethics Committee – The Committee's Role Where the Council Acts as Charity Trustee or Accompanying Body" that was previously shared with the Committee has been updated. A copy of the updated Briefing Note is appended to this report.

Background

3. The Constitution and Ethics Committee is responsible for functions relating to the Council's charity trustee role and related charity governance responsibilities, including cases where the Council acts as corporate trustee, holding trustee or custodian trustee, or exercises a power to appoint or nominate trustees. Where the Council is acting as a charity trustee, it must approach the matter from the standpoint of the charity and decide what is in the charity's best interests, rather than treating the matter as ordinary Council business. Any person appointed as a trustee following nomination by the Council must similarly act in the best interests of the charity.
4. The Charity Commission's guidance for local authorities confirms that councils may be trustees of charities, including charitable land such as recreation grounds and funds such as school prize funds. Where the local authority is the trustee, the trustee is the local authority itself and not individual councillors and/or officers personally. In cases where the Council acts as corporate trustee, officers and members involved in the business are acting on behalf of the authority in its

trustee capacity and not in their personal capacity. In contrast, where persons are appointed as trustee following nomination by the Council, they are the trustees and not the Council.

5. The guidance also identifies a number of risks which are particularly relevant to local authorities, including not recognising that property or funds are held on charitable trust, using charity property for ordinary local authority purposes, failing to identify and manage conflicts of interest, allowing small funds to become dormant, not keeping separate accounts and not submitting required accounts or returns to the Charity Commission. These responsibilities are not limited to identifying charitable status.
6. Where the Council holds charitable land, funds or other assets, whether as charity trustee, holding trustee or custodian trustee, the Council must ensure that those assets are properly safeguarded, recorded and managed in the capacity in which they are held. This includes ensuring that charitable land is used consistently with the relevant charitable purposes, that charitable money is held and separately identifiable from ordinary Council funds, that appropriate records and accounts are maintained, and that any investment or deposit arrangements are suitable, secure and kept under review in accordance with the relevant governing document, charitable purposes, liquidity requirements and charity law duties. This does not necessarily require a separate bank account for each fund, but it does require clear accounting separation and appropriate oversight.
7. In practical terms, finance and service records should enable officers to identify, at any point, the balance held for each charitable fund, the restrictions on its use, and income and expenditure attributable to it, and the officer and service responsible for monitoring it. Periodic reconciliation between finance records, trust papers and any Charity Commissions record should be undertaken so that dormant balances, unapplied income, missing governing documents or unclear responsibilities can be identified and brought back to the Committee where a trustee or governance decision is required.
8. The Council has previously reviewed a number of legacy educational trust funds. Some dormant funds have been transferred or closed following Charity Commission involvement. Other funds remain subject to further work because the original purposes, trustee provisions, successor bodies or proposed transfer routes are not straightforward. There are also separate arrangements where the Council appears to have a holding trustee role or a power to appoint a trustee, rather than being the corporate charity trustee itself.

Summary of current known trust-related roles

9. The following table summarises the Council's current charity-related roles:

Matter	Role	Current position	Proposed next step
Kibworth Beauchamp High School Foundation	The Council continues to manage the fund and related land interests.	Larger educational trust fund with capital, revenue and land interests. Further long-term proposals from the Mead Educational Trust remain unresolved.	Retain on the register and ensure any future grant, land or transfer decisions are reported as trustee decisions, such decisions to be taken in accordance with the charity's governance documents.
Kibworth Beauchamp Goodman Exhibition Fund	The Council holds and administers a small educational fund.	A fund established to provide small grants to former students for further education or training. A recent small grant has been dealt with through a light-touch agreement.	Retain on the register and ensure grant decisions are taken in accordance with the charity's governance documents and records are kept with the trust papers.
Mary Smith Scholarship Fund	Position requires regularisation. The Charity Commission record identifies the Council as sole trustee, but the governing schemes refer to multiple trustees.	Officers are progressing the appropriate route for regularising the governance arrangements, including any necessary engagement with the Charity Commission and specialist legal support.	With the aid of specialist legal advice, officers are exploring an appropriate route to regularise the governance arrangements and, if appropriate, transfer the fund in a way which preserves the original donor restrictions.
Hinckley John Cleveland Prize and Hinckley John Cleveland Scholarship Fund	Legacy educational trust funds held by the Council pending an agreed transfer route.	External advice supports dialogue with the Hinckley JCC Foundation about a conditional transfer	Seek Committee authority before committing to any transfer terms or change of objects.

Matter	Role	Current position	Proposed next step
		preserving the original donor restrictions.	
Piercy Scholarship Fund and Thompson Trust	The Council's role appears to be limited to a holding or custodian trustee role, subject to confirmation through the ongoing legal review.	The successor trustee position is uncertain and external advice is being used to identify the correct route forward.	With the aid of specialist legal advice, progress the Charity Commission scheme route and proposed trustee appointment arrangements.
Leicestershire Educational Trust Fund / former dormant educational trusts	Historic transfer and oversight role following earlier Committee and Charity Commission approvals.	Eight dormant trusts were closed and transferred into a consolidated fund administered by the Leicestershire and Rutland Community Foundation.	Keep transfer papers and any annual reports with the consolidated register. Where requested by LRCF, officers in the Council's CFS teams to liaise with the LRCF in respect of any query relating to the use and operation of this fund by the LRCF.
Bradgate Park and Swithland Wood Trust	Holding trustee role identified from internal correspondence.	The Council's current holding trustee position and any associated deed or release arrangements should be verified and recorded separately from corporate trustee cases.	Record separately from corporate trustee cases and verify the latest deed, any release and current holding trustee position.
Thomas Harley's Charity	Power to appoint one trustee.	The charity has invited the Council to appoint one trustee. The appointed person would act independently as a charity trustee.	Determine the appropriate Council appointment process, including eligibility, term of office, declarations, training, due

Matter	Role	Current position	Proposed next step
			diligence and confirmation that the appointed trustee will act independently in the interests of the charity.

Governance considerations

10. The key governance distinction is between the Council acting as the charity trustee, the Council holding property as a holding or custodian trustee, the Council exercising a power or discretion to appoint a trustee, and the Council merely holding funds pending regularisation or transfer. Those roles have different legal consequences and should not be conflated in reports, decision records or finance records.
11. Where the Council is the charity trustee, reports should expressly say that the Committee is being asked to consider the matter on behalf of the Council in its trustee capacity. The report should identify the relevant charitable purpose, the beneficiaries, the governing document, the proposed decision, the reasons why the decision is considered to be in the charity's best interests, any need for approval from non-Council trustees, any conflict with the Council's ordinary statutory or financial role, whether Charity Commission authority or advice is required and the need for any records to be held or filings made in respect of the decisions taken.
12. Where the Council is a holding trustee or custodian trustee, the record should identify the extent of that role, the property or assets held, the trustees or managing body on whose behalf the property is held, and whether the Council has any decision-making function beyond holding title or acting on lawful directions.
13. Where the Council has a power to appoint or nominate a trustee, the report should make clear that this is legally distinct from the Council acting as corporate charity trustee. An elected member, officer or other individual appointed as trustee acts personally in that capacity, owes trustee duties to the charity and its beneficiaries, does not represent the Council on the trustee board and must act in the best interests of the charity and its beneficiaries, rather than as a representative of the Council.
14. Future reports should therefore distinguish between:
 - a. the Council itself acting as the corporate trustee;

- b. the Council holding title to property as holding trustee or custodian trustee;
 - c. the Council exercising a power to appoint, nominate or remove a trustee; and
 - d. the Council being asked to identify an elected member, officer or other person willing to serve as an individual trustee.
15. Where the Council is asked to nominate or appoint an elected member, officer or other individual as charity trustee, the report should identify the person(s) proposed for appointment as charity trustee, the source of the appointment power, the term of office, the eligibility criteria, the process for making the appointment, any training or declaration requirements, and any conflict between the individual's role as trustee and their Council role. The report should also make clear that the appointed person owes their trustee duties to the charity and not to the Council when acting as trustee.
 16. Any person proposed for nomination or appointment as charity trustee by the Council should undertake appropriate due diligence before accepting the role. This should include consideration of the trustee duties and responsibilities, the charity's governing documents, the form of charitable structure, the charity's accounts and recent trustee minutes, any potential personal liability, and whether trustee indemnity insurance is available and adequate. Legal advice should be taken where appropriate. Any appointment or nomination must also be made in accordance with the charity's governing documents.

Proposed register and practical arrangements

17. It is proposed that officers maintain a single consolidated register of charitable trusts, funds, bequests, charitable land, holding trustee roles and trustee appointment powers. The register should identify, for each matter, the governing document, charitable objects, beneficiaries, trustee or holding trustee status, Charity Commission registration details, finance code or asset reference, lead service, last Committee decision and next planned action. The register should also record, where applicable, the nature and location of any charitable land, the amount and character of any charitable fund, whether any fund is permanent endowment or otherwise restricted, the account or investment arrangements in place, the basis on which funds are held securely, the officer or service responsible for monitoring the asset or fund, and the date on which the governing document, asset record, finance record and Charity Commission record were last checked.
18. The register should be treated as a governance and assurance document rather than simply a finance schedule. It should help ensure that charitable assets are not treated as ordinary Council assets, that dormant or low-value funds are kept under review, and that reports to the Committee are framed in the correct legal capacity.

Recommendation

19. The Committee is asked to:

- a) note the current working summary of the Council's known charity-related roles;
- b) agree that officers maintain a consolidated register of charitable trusts, charitable funds, charitable land, bequests, holding trustee roles and trustee appointment powers;
- c) note that the register will need to be verified against original governing documents, Charity Commission records, finance records and asset records;
- d) note that individual trust matters requiring a trustee decision, recommendation for trustee appointment, Charity Commission application, transfer, closure, grant approval or appointment decision will be reported separately where required;
- e) request that future reports clearly distinguish between the Council acting as charity trustee, holding trustee, custodian trustee, appointing or recommending body or undertaking ordinary local authority functions;
- f) agree that the register should record, where applicable, the arrangements for safeguarding, accounting for, applying and, where appropriate, investing charitable funds and managing charitable land;
- g) note that where the Council holds charitable funds, officers should review whether the funds are held securely and separately from ordinary Council funds and whether any deposit or investment arrangements remain appropriate having regard to the charity's purposes, governing document and liquidity requirements; and
- h) note that where the Council is asked to appoint or nominate an elected member, officer or other individual as trustee, the appointment should be treated as legally distinct from the Council acting as corporate trustee, and the appointed person must act independently in the best interests of the charity.

Legal and governance implications

20. The legal and governance implications are set out in the body of this report. The principal risk is that the Council may inadvertently make decisions about charitable assets or funds as if they were ordinary Council assets or may fail to recognise the active responsibilities that arise from holding charitable property or money. Those responsibilities may include safeguarding charitable assets, ensuring that charitable land is used consistently with the relevant charitable purposes, keeping separate records and accounts, applying charitable funds only for the permitted purposes, reviewing dormant or low-value funds, and ensuring that any funds held pending application are deposited or invested in a suitable and secure manner. That risk can be mitigated through a clearer register, consistent reporting, express identification of the capacity in which the Council is acting, separate charity records where appropriate, active management of conflicts of interest and timely use of Charity Commission advice or authority where needed.

Financial, staffing, equalities and environmental implications

21. There are no immediate direct financial, staffing, equalities or environmental implications arising from noting this report. There will be officer time required to verify and maintain the register, review governing documents, liaise with services, and progress Charity Commission or external legal advice on individual trust matters. Specific financial, property, equality or environmental implications should be considered in the relevant future report where an individual trust decision is proposed.

Consultation

22. No public consultation has been undertaken for this governance report. Where a future decision involves a change of charitable purpose, disposal or change of use of charitable land, transfer of a fund, or a decision affecting beneficiaries, the need for beneficiary consultation, professional advice or Charity Commission authority should be considered as part of that specific report.

Background papers

Charity Commission guidance: Local authorities (or councils) as trustees of charities, updated 8 August 2024. <https://www.gov.uk/government/publications/local-authorities-as-charity-trustees/local-authorities-or-councils-as-trustees-of-charities>

Officers to contact

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Appendices

Appendix - Updated copy of the Member Briefing Note “Constitution & Ethics Committee – The Committee’s Role Where the Council Acts as Charity Trustee or Accompanying Body.”

CONSTITUTION & ETHICS COMMITTEE

The Committee's Role Where the Council Acts as Charity Trustee or Appointing Body

When acting as charity trustee, the Council must consider the matter from the charity's perspective and make decisions which put the charity's best interests first

1. Role as a charitable trustee

The Constitution and Ethics Committee is responsible for matters relating to the Council's role as a charitable trustee. This may include cases where the Council is trustee of a charity or trust, is the recipient of a bequest, or holds property or assets on trust. It also includes matters where there may be a conflict between the Council's own interests and the interests of the charity, trust or bequest.

The Committee may also deal with appointments where the Council nominates or appoints an individual to serve as trustee of an independent charity. Such trustees act independently and owe their duties to the charity, not to the Council.

2. What does it mean for the Council to be a charity trustee?

The Council may hold land, buildings, money or other assets not for its ordinary Council purposes, but for a particular charitable purpose. Examples may include recreation grounds, playing fields, public gardens, cultural or civic buildings, war memorials, or small charitable funds and bequests.

Where the Council is the trustee, the trustee is usually the Council itself, not individual councillors personally. Members of the Committee are therefore helping the Council make decisions properly in its trustee capacity.

In contrast, where persons are appointed as trustee following nomination by the Council, they are the trustees and not the Council.

3. The main trustee duties

The Charity Commission summarises the main duties of charity trustees as follows:

- ensure the charity carries out its purposes for the public benefit;
- comply with the charity's governing document and the law;
- act in the charity's best interests;
- manage the charity's resources responsibly;
- act with reasonable care and skill; and
- ensure the charity is accountable.

4. What sort of matters may come before the Committee?

- Whether charitable land or property is being used in accordance with its purpose.
- Whether the use of a charitable asset can be changed.

- Whether charity land or property should be sold, leased, transferred or otherwise disposed of.
- How a charitable fund, trust or bequest should be managed or applied (including but not limited to the making of charitable grants, gifts, etc).
- Whether a conflict exists between the Council's interests and the charity's interests.
- Whether Charity Commission advice, consent or authority is needed.
- Whether charity records, accounts and decisions are being kept properly and separately where required.
- Decisions on recommendations proposed by the Council for specified individuals to be appointed as charity trustee of independent charities

In all cases, implementation will depend on the relevant charity's governing documents and may also require the approval of any other trustees, the Charity Commission, or other professional advice where appropriate.

CHECKLIST FOR COMMITTEE MEMBERS:

Question	What members should be satisfied about
What are we dealing with?	The charity, trust, bequest, land, property, fund, beneficiaries and any proposed appointee have been clearly identified.
What is its purpose?	The relevant governing document, trust deed, conveyance, bequest or Charity Commission document has been considered.
Who is meant to benefit?	The intended beneficiaries or public benefit are clear.
Is the proposal within the charity's purposes?	Charity assets must be used to support the purposes for which the charity was established.
Is the proposal in the charity's best interests?	The matter has been considered from the charity's perspective, not just the Council's perspective. Also whether there is a duty on the part of the Council to consider the issue at hand.
Is there a conflict of interest?	Any separate Council role or benefit has been identified, such as landowner, employee, funder, service provider or planning authority.
Has any conflict been managed?	The proposed approach to managing the conflict is clear; if it cannot be managed, Charity Commission authority may be needed.
Is there enough information?	Members have the legal, financial, property, valuation, consultation or Charity Commission advice needed to decide. Also, whether affected persons have undertaken

Question	What members should be satisfied about
	appropriate due diligence and sought legal advice as appropriate.
Is Charity Commission authority needed?	This includes but is not limited to proposals for land disposals, changes of purpose, significant conflicts or transactions involving the Council itself.
Will the decision be clearly recorded?	The record should show the decision taken by the Committee including where the Council acted as charity trustee, what information was considered, any conflicts identified, and why the decision was in the charity's best interests.
Are any charitable funds being properly safeguarded?	The funds are separately identifiable, properly recorded, applied only for the charity's purposes, and held, deposited or invested securely and appropriately.

Simple test: Has the matter been considered from the charity's perspective, and can the Committee explain why the decision is in the charity's best interests?

Source note: Prepared with reference to Charity Commission guidance, including "The essential trustee" and "Local authorities (or councils) as trustees of charities", and the Constitution and Ethics Committee's terms of reference.

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