

## **PART 1 : CONTENTS**

### **SUMMARY AND EXPLANATION**

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

The North Warwickshire Borough Council has agreed a new Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

The Constitution is divided into 15 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

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

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

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council Meeting (Article 4)
- Chairing the Council (Article 5)
- Scrutiny of Decisions (Article 6)
- Executive, Resources, Community and Environment, and Planning and Development Boards (Article 7)
- The Standards Committee (Article 8)
- Area Forums (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, Contracts and Legal Matters (Article 13)
- Review and Revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15).

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

The Council is composed of 35 Councillors elected every four years. Councillors are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct, and will consider complaints of a breach of that Code.

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

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

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

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

#### **Scrutiny**

There is one Scrutiny Board who supports the work of the Policy Boards and the Council as a whole. It allows citizens to have a greater say in Council and other matters by having the ability to review in depth matters of local concern. These can lead to reports and recommendations which advise the Policy Boards and the Council as a whole on its policies, budget and service delivery. The Scrutiny Board also monitors the decisions of the Policy Boards. They can, in certain circumstances, "call-in" a decision which has been made by a Policy Board but not yet implemented. This enables them to consider whether the decision is appropriate. It may recommend that full Council reconsider the decision. It may also be consulted by Policy Boards on forthcoming decisions and the development of policy, and will oversee and participate in the programme of Best Value reviews

#### **6. Area Forums**

In order to give local citizens a greater say in Council affairs, four Area Forums have been created. These cover groupings of Electoral Wards for the north, south, east and west parts of the Borough. They are responsible for considering matters of particular relevance to their area and making recommendations to the relevant Policy Board or the full Council. Area Forums will also have the right to be consulted on a number of local issues.

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

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

## 8. **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens Advice Bureau can advise on individuals' legal rights.

Where Members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- Vote at local elections if they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Council, its Boards and Area Forums; except where for example, personal or confidential matters are being discussed;
- Petition to request a referendum on a mayoral form of executive;
- Complain or compliment the Council under the Compliments and Complaints procedure;
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own Compliments and Complaints procedure;
- Complain to the Council's Standard Committee, via the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- Inspect the Council's accounts and make their views known to the external auditor (the District Auditor).

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

A statement of the rights of citizens to inspect agendas, reports and background papers for Council or Board meetings, and to attend these meetings, is available at The Council House, South Street, Atherstone, by contacting David Harris (as above), or on the Council web-site ([www.northwarks.gov.uk](http://www.northwarks.gov.uk)). A copy is also attached at Schedule 1/1 to this Part of the Constitution (pages 9 to 12 inclusive).

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

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

#### 1 Introduction

The rights set out in this statement are statutory rights laid down in Sections 100A to 100K (inclusive) of the Local Government Act 1972 (as amended by the Local Authorities (Access to Meetings and Documents) Period of Notice (England) Order 2002 and the Local Government (Access to Information) (Variation) Order 2006) and in Parts II and III of the Local Government Act 2000.

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

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

##### a Before the Meeting

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

##### b At the Meeting

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

##### c After the Meeting

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

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

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

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

- i Inspection  
The fee for inspecting background papers is £2.00 for each item of business.
- ii Photocopies  
The fee for providing photocopies of background papers is 10p per side, subject to a minimum charge of 50p.

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

### 4 **Copyright**

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

### 5 **Inspection of Documents**

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

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

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

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

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

c For “Confidential” and “Exempt Business”

The public’s right to attend or remain in meetings is affected when certain types of business are transacted. These involve discussion of “confidential” and “exempt” information, which are explained below:

**Confidential Information**

Information is confidential if it has been provided by a Government department in confidence or if it is prohibited from disclosure by a court order or by law. The public have to be excluded from a meeting if it is likely that their presence would lead to confidential information being disclosed.

**Exempt Information**

The legislation describes in detail the types of information which are exempt, unless on balance it is in the public interest to disclose the information. Exempt information covers such matters as personal information, financial and business affairs of people and companies dealing with the Council, action likely to lead to criminal proceedings and matters relating to industrial relations, consultations and negotiations or to legal proceedings. The public may be excluded from a meeting whenever it is likely that exempt information would be disclosed.

d Disorderly Conduct or other Misbehaviour at a Meeting

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

7 **Rights of the public attending meetings**

The public right of access is simply a right to be present at the meeting, listen to the proceedings and take written notes. There is no public right to speak or take part in the meeting, unless invited to do so by the Chairman.

The Council’s own Procedural Standing Orders do not allow Members of the public, without prior written permission from the Chief Executive, to bring into the meeting or use during it any camera or apparatus for making a photographic film or record; any radio transmitting or recording equipment; any typewriter, portable computer, or other such mechanical apparatus; or an active mobile phone.

8 **Publicity for Meetings**

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

The calendar of meetings and each agenda will also be displayed on the Council’s website – [www.northwarks.gov.uk](http://www.northwarks.gov.uk).

9 **Venue for Meetings**

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

Meetings of Area Forums are held in the local area and details are obtainable from

the Democratic Services Section or on the Council's website.

**10 Rights in relation to other information**

**a Register of Council Members, Wards, and Membership of Boards, Standards Committee, Panels and Area Forums**

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

**b List of Delegated Powers**

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

**c Register of Members' Interests**

The register of interests declared by Members is also available for public inspection.

April 2010

North Warwickshire Borough Council  
The Council House  
South Street  
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Warwickshire  
CV9 1DE

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## **PART 2 : CONTENTS**

### **ARTICLES OF THE CONSTITUTION**

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## **ARTICLE 1 – THE CONSTITUTION**

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

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

### **1.02 The Constitution**

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

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

The purpose of the Constitution is to:

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

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

The Council will monitor and evaluate the operations of the Constitution as set out in Article 14.

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

### **2.01 Composition and Eligibility**

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

The Council will comprise 35 Members, otherwise called Councillors. Two or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

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

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

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

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

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

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

All Councillors will:

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

(b) **Rights and Duties**

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

2.04 **Conduct**

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

2.05 **Allowances**

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

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

### **3.01 Citizens' Rights**

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

#### **(a) Voting and Petitions**

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected Mayor form of constitution.

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

Citizens have the right to:

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

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

Citizens have the opportunity to contribute to investigations by Scrutiny Board, when so requested.

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

Citizens have the right to complain to:

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

### **3.02 Citizens' Responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

## **ARTICLE 4 – THE FULL COUNCIL**

### **4.01 Meanings**

#### **(a) Policy Framework**

The policy framework means the following plans and strategies:

- Sustainable Community Strategy
- Crime and Disorder Reduction Strategy
- Local Development Framework
- Council's Corporate Plan
- Food Law Enforcement Service Plan
- Housing Strategy
- Capital Strategy
- Health, Wellbeing and Leisure Strategy L

And such other plans and strategies as the Council may from time to time be required by statute or government direction to adopt, or which the Council itself decides to adopt.

#### **(b) Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax, decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of relevant limits.

#### **(c) Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985).

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

Only the Council will exercise the following functions:

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

#### 4.03 **Council Meetings**

There are three types of Council meeting:

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

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

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

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

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

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

- 1 To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 2 To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- 3 To ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
- 4 To promote public involvement in the Council's activities; and
- 5 To attend civic, ceremonial and public functions on behalf of the Council

## **ARTICLE 6 –SCRUTINY BOARD**

### **6.01 Terms of Reference**

The Council will appoint a Scrutiny Board to discharge the functions conferred by regulations under Section 32 of the Local Government Act 2000

The Chairman and Vice Chairman of the Scrutiny Board can sit on Policy Boards subject only to the restrictions applying to other Councillors.

### **6.02 General Role**

Within its terms of reference, the Scrutiny Board will:

- (i) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) Make reports and/or recommendations to the Full Council and/or any Board or Area Forum in connection with the discharge of any functions;
- (iii) Consider any matter affecting the area or its inhabitants, including those raised via the Councillor Call for Action;
- (iv) Exercise the right to call in, for re-consideration, decisions made but not yet implemented by any Policy Board or Area Forum (**as set out in Standing Order No 31 of the Council's Procedural Standing Orders in Part 4 of this Constitution**).

### **6.03 Specific Function**

#### **(a) Policy Development and Review**

The Scrutiny Board will, within its responsibilities and functions:

- (i) Assist the Council in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) Question Members of Boards and Officers about their views on issues and proposals affecting the area; and
- (v) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

#### **(b) Scrutiny**

The Scrutiny Board will, within its respective responsibilities and functions:

- (i) Review and scrutinise the decisions made by and performance of Policy Boards, Area Forums and Council Officers both in relation to individual decisions (except for individual employee issues, individual decisions on the conduct of Members and individual decisions of the Planning and Development Board) and over time;

- (ii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) Question Members of the Policy Boards, Area Forums and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions (except for decisions on individual employee issues, individual decisions on the conduct of Members and individual decisions of the Planning and Development Board and the Licensing Committee, or decisions of Officers acting under delegated powers, relating to individual applications of a regulatory nature), initiatives or projects;
- (iv) Make recommendations to the appropriate Policy Board and/or Council arising from the outcome of the scrutiny process;
- (v) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and
- (vi) Question and gather evidence from any person (with their consent).

(c) **Finance**

The Scrutiny Board will exercise overall responsibility for the finances made available to them.

(d) **Annual Report**

The Scrutiny Board will report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

#### 6.04 **Proceedings of the Scrutiny Board**

The Scrutiny Board will conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

#### 6.05 **Meanings**

In this Article, "Officer" means the Chief Executive, Directors, Assistant Directors, Assistant Chief Executive and any other Officer with his or her agreement and the agreement of his or her manager.

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## **ARTICLE 7 – POLICY AND OTHER BOARDS**

### **7.01 Policy and Other Boards**

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

## **ARTICLE 8 – THE STANDARDS COMMITTEE**

### **8.01 Standards Committee**

The Council will establish a Standards Committee.

### **8.02 Composition**

#### **(a) Membership**

The Standards Committee will be comprised of:

- 5 Councillors
- 3 persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (the independent Members)
- 3 Members of a Parish or Town Council in North Warwickshire (the Parish Members).

#### **(b) Independent Members**

Independent Members will be entitled to vote at meetings.

#### **(c) Parish Members**

At least one of the Parish Members must be present when matters relating to Parish or Town Councils or their Members are being considered. The Parish Members will be entitled to vote on all issues.

#### **(d) Parish and Town Councils and Their Members**

The Standards Committee will exercise the function set out in Article 8.03 (i) below.

### **8.03 Role and Function**

The Standards Committee will have the following roles and functions;

- (a) Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) Assisting Councillors and co-opted Members to observe the Members' Code of Conduct;

- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and co-opted Members on ethical matters, including the Members' Code of Conduct;
- (f) Advising the Council generally on matters relating to the ethical conduct of the Council and its Members;
- (g) Granting dispensations to Councillors, and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (h) Dealing with any allegations of a breach of the Members' Code of Conduct.
- (i) The exercise of (a) to (h) above in relation to Parish and Town Councils in North Warwickshire and the Members of those Parish and Town Councils.
- (j) Monitoring attendances at meetings of Boards, Committees, Panels and Area Forums.
- (k) When a Member is suspended from acting as a Councillor after being found to be in breach of the Code of Conduct, to consider suspension, in whole or part, the allowances payable to that Member.
- (l) The submission of an annual report to the Council on the work undertaken by the Committee during the year.

## ARTICLE 9 – AREA FORUMS

### 9.01 Area Forums

The Council may appoint Area Forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision making.

The Council will consult with the County Council and the relevant Parish and Town Councils when considering whether and how to establish Area Forums.

### 9.02 Form, Composition and Function

#### (a) Table of Area Boards and Forums

The Council will appoint the Area Forums as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

Name of Board	Initial Composition	Terms of Reference
<i>Northern Area Forum (covering the Borough Wards of Baddesley Ensor, Dordon, Grendon, Newton Regis, Polesworth East, Polesworth West and Warton)</i>	<i>Borough Councillors for the Wards in column 1 together with the County Councillors for the Baddesley Ensor and Polesworth County Electoral Divisions</i>	<i>To reflect its consultative role, the body has an advisory capacity. It may submit reports on matters of concern locally to the relevant Board, Scrutiny Board or the Council on a quarterly basis</i>
<i>Eastern Area Forum (covering the Borough Wards of Atherstone Central, Atherstone North, Atherstone South/Mancetter and Hartshill)</i>	<i>Borough Councillors for the Wards in column 1 together with the County Councillors for the Atherstone and Hartshill County Electoral Divisions</i>	<i>To reflect its consultative role, the body has an advisory capacity. It may submit reports on matters of concern locally to the relevant Board, Scrutiny Board or the Council on a quarterly basis</i>
<i>Western Area Forum (covering the Borough Wards of Curdworth, Hurley/Wood End, Kingsbury and Water Orton)</i>	<i>Borough Councillors for the Wards in column 1 together with the County Councillors for the Kingsbury and Water Orton County Electoral Divisions</i>	<i>To reflect its consultative role, the body has an advisory capacity. It may submit reports on matters of concern locally to the relevant Board, Scrutiny Board or the Council on a quarterly basis</i>
<i>Southern Area Forum (covering the Borough Wards of Arley and Whitacre, Coleshill North, Coleshill South and Fillongley)</i>	<i>Borough Councillors for the Wards in column 1 together with the County Councillors for the Arley and Coleshill County Electoral Divisions</i>	<i>To reflect its consultative role, the body has an advisory capacity. It may submit reports on matters of concern locally to the relevant Board, Scrutiny Board or the Council on a quarterly basis</i>

#### (b) Delegations

The Council will include details of the delegations (if any) to Area Forums in Part 3 of the Constitution, including the functions delegated, the composition and Membership of the Forums, budgets, and any limitations on delegation.

### 9.03 **Conflicts of Interest – Membership of Area Forums and the Scrutiny Board**

#### (a) **Conflicts of Interest**

If the Scrutiny Board is scrutinising specific decisions or proposals in relation to the business of an Area Forum of which the Councillor concerned is a Member, then the Councillor may not speak or vote at the Scrutiny Board meeting unless a dispensation to do so is given by the Standards Committee.

#### (b) **General Policy Reviews**

Where the Scrutiny Board is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

### 9.04 **Area Forums – Access to Information**

Area Forums will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

## **ARTICLE 10 – JOINT ARRANGEMENTS**

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

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

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

### **10.02 Joint Arrangements**

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

### **10.03 Access to Information**

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

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

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

### **10.05 Contracting Out**

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

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

## ARTICLE 11 – OFFICERS

### 11.01 Management Structure

(a) **General**

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

(b) **Chief Officers**

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

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

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

The Council will designate the following posts as shown:

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

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

(d) **Structure**

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

## 11.02 Functions of the Head of Paid Service

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

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

### (b) Restriction on Functions

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

## 11.03 Functions of the Monitoring Officer

### (a) Monitoring the Constitution

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

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

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

### (c) Supporting the Standards Committee

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

### (d) Receiving Complaints

The Monitoring Officer will receive Complaints of breach of the Members' Code of Conduct and reference these to the Standards Committee.

### (e) Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee. This function may be delegated by the Monitoring Officer to others, including someone not employed by the Council.

(f) **Proper Officer for Access to Information**

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

(g) **Providing Advice**

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

(h) **Restrictions on Posts**

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

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

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

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

(b) **Administration of Financial Affairs**

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

(c) **Contributing to Corporate Management**

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

(d) **Providing Advice**

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

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

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

11.06 **Conduct**

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

11.07 **Employment**

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

## **ARTICLE 12 – DECISION MAKING**

### **12.01 Responsibility for decision making**

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

### **12.02 Principles of decision making**

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

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

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

Subject to Article 12.06, the Council meeting will follow the Procedural Standing Orders set out in Part 4 of this Constitution when considering any matters.

### **12.04 Decision making by the Scrutiny Board**

The Scrutiny Board will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **12.05 Decision making by other Boards, Committees and Area Forums established by the Council**

Subject to Article 12.06, other Council Boards and Area Forums will follow those parts of the Procedural Standing Orders set out in Part 4 of this Constitution as apply to them.

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

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

## **ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **13.01 Financial Management**

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

### **13.02 Contracts**

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

### **13.03 Legal Procedures**

The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or any case where he or she considers that such action is necessary to protect the Council's interests. The Chief Executive may also exercise these powers, where he/she is a qualified Solicitor or Barrister.

### **13.04 Authentication of documents**

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

### **13.05 Common Seal of the Council**

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

## **ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION**

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

The Chief Executive and the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and make any necessary recommendation to the appropriate Board, Committee, or Council.

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

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

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

### **14.02 Changes to the Constitution**

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

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

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

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

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

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

## **ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **15.01 Suspension of the Constitution**

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

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

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

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

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

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

### **15.02 Interpretation**

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

### **15.03 Publication**

(a) The Chief Executive will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

(b) The Assistant Chief Executive will ensure that copies are available for inspection at council offices, libraries and other appropriate locations and on the Council's web site, and can be purchased by Members of the local press and the public on payment of a reasonable fee.

(c) The Assistant Chief Executive will ensure that the summary of the Constitution is made widely available within the area, and is updated as necessary.

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

The following parts of this Constitution constitute the alternative arrangements:

1. Article 6 (Scrutiny Board) and the Scrutiny Procedure Rules set out in Part 4.
2. Article 7 (Policy and other Boards) and the terms of reference for those Boards set out in Part 3.

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

## **PART 3 : CONTENTS**

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## INTRODUCTION

### 1. **Object**

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

- The Main Terms of Reference of:

The Executive Board  
Special Sub Group  
The Resources Board  
The Community and Environment Board  
The Standards Committee  
The Planning and Development Board  
The Licensing Committee  
The Area Forums  
The Scrutiny Board

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

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

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

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

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

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

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

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

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

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

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

#### 5. **Interpretation**

Throughout Part 3 of this Constitution:

“Area Co-ordinator” means the Chairman of an Area Forum

“Chairman” means the Chairman of the relevant Board, who may, in relevant circumstances, also hold another office such as Leader of the Council, a Deputy Leader, a Portfolio Holder or an Area Co-ordinator

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

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

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

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

## APPENDIX A

### THE EXECUTIVE BOARD

#### A Main Terms of Reference

- 1 Formulating the overall policy framework for Council approval. This will include:
  - (a) the Corporate Plan
  - (b) the North Warwickshire Sustainable Community Strategy,
  - (c) the North Warwickshire Local Development Framework
  - (d) the Housing Strategy
  - (e) the Crime and Disorder Reduction Strategy
  - (f) the Health, Well-being and Leisure Strategy
  - (g) the Capital Strategy
  - (h) the Food Law Enforcement Service Plan
  - (i) such other Plans and Strategies as the Council may, from time to time, be required by statute or Government Direction to adopt or which the Council itself decides to adopt.

(N.B. The Scrutiny Board must be advised of strategies and policies which are being developed, so that it can decide which of these it wishes to consider. The Scrutiny Board will then put its views to the Executive Board prior to that Board's submission to the Council).
- 2 Arranging the overall finances of the Council (The Resources Board will manage and monitor the Council's budget and financial situation).
- 3 Annual Budget Preparation, including recommending the level of Council Tax.
- 4 Capital Programme.
- 5 Strategic and Local Development Framework issues, including developing and implementing the Sustainable Community Plan; Regional Planning Guidance; commenting on Minerals Plan proposal from Warwickshire County Council; and submitting comments on the statutory plans of neighbouring Authorities.
- 6 Terms of Reference of the Boards, Standards Committee and Area Forums, together with their composition and any subsequent reviews of such matters.
- 7 Approval of the overall arrangements for the delegation of powers to Officers, Area Forums and other Committees.
- 8 Constitutional matters affecting the name, status, boundary and area of the Borough.

- 10 The structure, functions and administration of local government as they affect the Borough.
- 11 Electoral matters, including elections, electoral registration and Warding arrangements, other than those set out in Appendix C.
- 12 Matters involving more than one Board or where there is a difference of view between them.
- 13 Proposals to confer the titles of Honorary Alderman and Honorary Freeman, under section 249 of the Local Government Act 1972.
- 14 Representation on outside bodies.
- 15 Emergency Planning.
- 16 Submission to the Council of an annual report on the work undertaken by the Board during the year.
- 17 Approval of Arrangements for the appointment of the Chief Executive, Directors, Assistant Directors and the Assistant Chief Executive together with their pay and conditions of service.
- 18 Approval of the overall management structure and establishment of the Authority.
- 19 Any other matter not specifically allocated to another Board, Committee, Forum or the Council itself.

**B Powers Delegated to the Board**

- (a) To determine the pay and conditions of service of the Chief Executive, Directors, Assistant Directors and the Assistant Chief Executive.
- (b) To implement the approved Crime and Disorder Strategy.
- (c) To approve the Council's Statement of Accounts.

**C Powers Delegated to Officers**

**(i) Various Officers**

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

**(ii) Solicitor to the Council**

- (a) In consultation with the Ward Members for the area contained in the notice, to deal with consultation from the Police on authorisation notices allowing for the dispersal of groups.
- (b) In consultation with the Portfolio Holder and Shadow Portfolio Holder for Housing and the relevant Ward Members, power to instigate legal action against tenants in relation to nuisance issues, subject to him being satisfied that sufficient evidence exists to support such action.

**D Powers Delegated to Area Forums**

None.

## **SPECIAL SUB-GROUP**

### **A Terms of Reference**

1. Senior staff appointments.
2. Single Status issues.
3. North Warwickshire Accommodation Project.
4. Emergency Planning.
5. Long Term Sickness Absence.
6. Housing Partnership Procurement.
7. Any other issues may be delegated to it from time to time.

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

All matters listed under heading A above.

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

None.

### **D Powers Delegated to Area Forums**

None.

## THE RESOURCES BOARD

### A Main Terms of Reference

- 1 Develop strategies and policies, within its terms of reference, and put them to the Executive Board for consideration and submission to the Council for approval (the Scrutiny Board must be advised of strategies and policies which are being developed, so that it can decide which of these it wishes to consider. The Scrutiny Board will then put its views to the Executive Board prior to that Board's submission to the Council).
- 2 Managing and monitoring the Council's budget and financial situation, including requests for supplementary estimates.
- 3 Revenues, non-domestic rating and Council Tax matters.
- 4 Rent Allowances; and Housing and Council Tax Benefits.
- 5 Concessionary Fares.
- 6 Insurance and Risk Management.
- 7 Members' Allowances, including reports from the Independent Remuneration Panel.
- 8 Applications for financial assistance, other than those coming within the purview of the Community and Environment Board.
- 9 Maintenance and management of the Council's land and property holdings, facilities and assets, including:
  - (a) maintenance of the Council's housing stock - Council estates
  - (b) operational buildings including The Council House, Old Bank House and the Sheepy Road Depot
  - (c) land holdings and the Property Portfolio
  - (d) industrial, commercial and shop properties
  - (e) Car parks, bus shelters and public conveniences
  - (f) the vehicle fleet
  - (g) property which does not come under the control of any other Board
- 10 Member Support, Development and Training.
- 11 Mayoral facilities, support and functions.
- 12 Variations to the establishment below Assistant Director/Assistant Chief Executive level.
- 13 Recruitment, training, welfare and pay and conditions of service of all employees, (except the Chief Executive, Directors, Assistant Directors and the Assistant Chief

Executive) including retirement; redundancy; severance; superannuation and compensation arrangements; health and safety; and grievance and disciplinary matters.

- 14 Central/Internal Support Services (ie, Finance; Internal Audit; Information and Communications Technology; Legal and Estates; Policy Support; Democratic Services; and Member Support Services).
- 15 E-Government Issues
- 16 Submission to the Council of an annual report on the work undertaken by the Board during the year.
- 17 To receive the annual report of the Principal Auditor on the Corporate Counter-Fraud Strategy.
- 18 Council housing management issues including homelessness, tenancy matters, rent arrears and possession proceedings.
- 19 Private sector housing functions, including the renovation, repair and improvement of individual properties; closure and demolition of unfit properties; and harassment and unlawful eviction cases under the Protection from Eviction Act, 1977.
- 20 Partnerships and relationships with Registered Social Landlords and other housing providers, including issues of housing need and supply.
- 21 The Borough Care Community Alarm and Visiting Service and its associated areas of activity, including elderly care issues.
- 22 Authority to make arrangements to undertake call monitoring for individuals in the Borough, who do not qualify for the full Borough Care Service, and in other areas (on behalf of the relevant local authorities and other bodies); and, in consultation with the Assistant Director (Finance and Human Resources), to determine the appropriate weekly charge from time to time.
- 23 The Council's Out of Hours Emergency Response Service.
- 24 Management and development of Closed Circuit Television Schemes.
- 25 Animal Welfare, control of Dogs and pest control.

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

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

## **C Powers Delegated to Officers**

### **(i) Chief Executive, Directors, Assistant Directors and the Assistant Chief Executive**

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

### **(ii) Chief Executive**

- (a) Authority to administer the Staff Car Scheme.
- (b) To authorise the granting of car purchase loans within the Council's approved policy.
- (c) To determine, in consultation with the Mayor, the form and content of hospitality to be offered to visitors.
- (d) To make arrangements, in consultation with the Mayor, for the Annual Civic Service and the Annual Civic Function and other mayoral engagements.
- (e) The appointment and dismissal of, and taking disciplinary action against any Member of the Council's staff, other than the Head of the Authority's Paid Service, the Directors and Assistant Directors of the Council, and its Assistant Chief Executive. These functions are required to be incorporated in the Council's Constitutional Standing Orders by virtue of Part IV of Schedule 1 to the Local Authorities (Standing Orders) (England) Regulations 2001, which came into effect on 7 November 2001.

N.B. These functions may be discharged by an Officer nominated by the Head of the Authority's Paid Service.

- (f) To make such temporary appointments as may from time to time be necessary.
- (g) To determine applications received under the Early Retirement/Severance Scheme, following consultations with the Chairman of the Resources Board and the Leader of the Council.
- (h) To accept, in consultation with the Chairman, insurance renewal terms. (In the absence of the Chief Executive this authority may be exercised by the Director of Resources).

### **(iii) Director of Resources**

- (a) The power to declare mortgage interest rates under Section 438 and Schedule 16 of the Housing Act, 1985.

(This power is to be exercised after consultation with the Chairman and Vice-Chairman of the Resources Board).

- (b) Management of the Hospitality Account.

- (c) Powers delegated in the Council's Financial Regulations and Code of Treasury Management.
- (iv) **Director of Resources, Assistant Director (Finance and Human Resources) and Assistant Director (Revenues and Benefits)**
  - (a) Unlimited approval for cheque signing purposes, to release money transfers and to sign official orders.
- (v) **Solicitor to the Council**
  - (a) The granting of tenancies up to 3 years of land or premises temporarily surplus to requirements.
  - (b) The granting of easements over or under Council land to statutory undertakers and public bodies, including connecting into the Council's drainage system.
  - (c) The approval of terms for the sale of land on the Holly Lane Industrial Estate, Atherstone.
  - (d) The granting of leases and licences and the approval of applications for the assignment of all Council owned shops, factory units, industrial premises, workspace units and office premises (those over The Arcade shops in Long Street, Atherstone), subject to the receipt of satisfactory references for the prospective assignees and to the payment of all sums due to the Council in respect of the property by the date of assignment
  - (e) Fixing the level of rent increases for factory units, industrial premises, shops and offices after taking valuation advice; and determining the dates of implementation of such increases.
  - (f) Negotiations for the transfer to the Council of open spaces and amenity areas on private housing and industrial estates, in accordance with the Council's policy.
  - (g) Authority to institute legal proceedings, in consultation with the Chairman of the Board and the Assistant Director (Streetscape) for:-
    - (i) any contraventions of the provisions of Off Street Parking Places Orders made by the Council;
    - (ii) any unauthorised use of Council owned land by mobile food traders; and
    - (iii) the recovery of outstanding fixed penalty charges for parking.
  - (h) Authority to consider Surveillance Requests, under the Regulation of Investigatory Powers Act, 2000. In his absence, this power may be exercised by any other Member of the Council's Management Team, and in the absence of all members of Management Team by any other Member of the Council's Extended Management Team.

- (i) Authority to commence proceedings for offences under Sections 111a or 112 of the Social Security Administration Act 1992 following a recommendation to that effect by the Assistant Director (Revenues & Benefits), and provided that he is satisfied that the evidence available supports the course of action.
  - (j) Authority, in consultation with the Chairman and the Assistant Director (Housing), to seek an ex-parte Court injunction, where urgent action is required to control nuisance.
  - (k) Authority to serve Notice of Seeking Possession or Notice to Quit, as appropriate, on any remaining under-occupying occupants of a Council property on the death of the secure tenant.
  - (l) The sale of Council houses and the granting of 125 year leases of Council flats under the Government's Right to Buy legislation.
  - (m) Exercise the Council's functions under the Protection from Eviction Act 1977, and any amendments thereof in relation to unlawful eviction or harassment, including the institution of proceedings.
  - (n) Applications to a Magistrates Court for a Removal Order or an Emergency Removal Order, under the National Assistance Acts, in respect of persons in need of proper care and attention, where the necessary certificate is given by the District Medical Officer or the District Medical Officer and a Registered Medical Practitioner.
  - (o) Arrangements, through appropriate officers, for the temporary protection of properties normally occupied by the persons the subject of an order referred to at (k) above.
- (vi) **Assistant Director (Finance and Human Resources)**
- (a) Powers to manage the Council's loan debt, including authority to make arrangements for the raising and repayment of loans related to the Council's cash requirements.
  - (b) The payment of accounts.
  - (c) Apply the maximum allowances for Mileage and Subsistence, as prescribed from time to time by the Secretary of State with effect from the relevant date.
  - (d) Power to write off, as irrecoverable, individual arrears not exceeding £750.
  - (e) Authority to refer outstanding debts to debt collection agencies for recovery.
  - (f) Authority to approve the payment of professional subscriptions.

(vii) **Assistant Director (Revenues and Benefits)**

- (a) The making of proposals, objections, or agreements related to the Valuation List and to attend local Valuation Tribunals.
- (b) Authority to make refunds of overpaid rates, subject to issue of a notification from the Valuation Officer.
- (c) The recovery of non-domestic rates and Council Tax including the issue of notices and the power to prosecute or defend in proceedings before the Magistrates Court. (These powers have also been delegated to Ian Buckingham, Steven Farmer and Mike Shaw).
- (d) Issue travel concession passes or tokens within the policy approved by the Council.
- (e) Power to write off, as irrecoverable, individual rent or other arrears not exceeding £750.
- (f) Power to administer the Housing Benefit and Council Tax Benefit Schemes. (This power may be exercised, in the absence of the Assistant Director (Revenues and Benefits), by the Director of Resources or the Customer Services and Benefits Manager).
- (g) Power to administer, on behalf of the Council, the Collection Fund established under Section 89 of the Local Government Finance Act, 1988.
- (h) The Power, in consultation with the Chairman of the Board, to determine all future applications received for Discretionary Rate Relief from Rural Businesses in respect of Non-Domestic Rates. (Annual report to be submitted to the Board on all applications approved under this delegation).

(viii) **Assistant Chief Executive (Streetscape)**

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

report being submitted for information to the next meeting. (This power is to be exercised after consultation with the Chairman and Vice-Chairman of the Board).

- (h) Power to determine applications for the use of Council owned land by circuses and fun fairs, subject to consultation with the Chairman and Vice-Chairman of the Board and to compliance with Minute No 19 of the Leisure Services Committee meeting held on 27 July 1987.
- (i) Amenity grass cutting, under the delegation agreement with the County Council.

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

- (a) The repair of Council dwellings (including planned maintenance) either through the Direct Services Organisation or by contract, subject to compliance with Standing Orders.
- (b) To determine applications to erect covered ways, verandas, conservatories and other outbuildings; to undertake other alterations to Council dwellings; and applications for the erection by tenants of individual garages and hard standings in front gardens subject to the necessary planning and/or building regulations approvals being obtained.
- (c) The valuation of buildings attached to Council property where compensation is payable upon termination of the tenancy.
- (d) To allocate Council owned dwellings in accordance with the Council's agreed Allocations Policy, current legislation and Government Guidance.
- (e) To allocate garages and parking spaces.
- (f) Homelessness matters arising from Part VII of the Housing Act, 1996.
- (g) To grant applications for the use of Communal Centres in Sheltered Dwelling Schemes in approved circumstances.
- (h) The power to serve Notices of Seeking Possession for contraventions of tenancy conditions – this power is to be exercised in consultation with the Chairman of the Board.

(x) **Assistant Director (Corporate Services)**

Authority, subject to Management Team approval, to issue amendments from time to time to the Council's Computer Security Policy Guidelines.

(xi) **Assistant Director (Housing)**

- (a) The approval of applications for Housing Renovation and Disabled Facilities Grants.
- (b) To determine applications for Home Repairs Assistance Grants.
- (c) The service of notices under the following legislation:-
  - (i) Public Health Act 1936 – Sections 83 (filthy or verminous premises) and Environmental Protection Act 1990 – Sections 79 to 80 (disrepair causing a statutory nuisance)
  - (ii) Building Act 1984 – Section 76 (disrepair requiring urgent attention)
  - (iii) Housing Act 1985 – Sections 189 (repair notice for an unfit house), 190 (repair notice for a house in a state of disrepair), 338 (notice to abate overcrowding), 352 (power to require works to render premises fit for number of occupants in houses in multiple occupation), 354 (power to limit number of occupants), 358 (overcrowding notice) and 364 (power to require information where an overcrowding notice is in force)
- (d) Authority to serve Deferred Action or Renewal Notices, in appropriate cases, under the relevant provisions of the Housing Grants, Construction and Regeneration Act, 1996.
- (e) Payment of compensation for home loss and disturbance, under the provisions of the Land Compensation Act 1973, on the basis of the advice of the Council's Valuer in connection with disturbance compensation.
- (f) Securing the repayment of Improvement Grants, in accordance with the Council's policy, where a breach of grant conditions has occurred. (Where hardship is claimed, the case will be determined by the Board).

(xii) **Generally**

Powers as defined in the Council's Financial Regulations.

**D Powers Delegated to Area Forums**

None.

## **THE COMMUNITY AND ENVIRONMENT BOARD**

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

- 1 Develop strategies and policies, within its terms of reference, and put them to the Executive Board for consideration and submission to the Council for approval (the Scrutiny Board must be advised of strategies and policies which are being developed, so that it can decide which of these it wishes to consider. The Scrutiny Board will then put its views to the Executive Board prior to that Board's submission to the Council).
- 2 Develop and foster Community and Partnership Working, including Community Development, and Health Improvement.
- 3 Economic Development and Tourism, including:
  - a projects, initiatives, regeneration schemes, inward investment and forward planning
  - b employment development
  - c European community matters affecting economic development
  - d the economic vitality and viability of the Borough, its towns and villages
  - e the local economic and labour market
  - f tourism development and promotion
- 4 Leisure and Cultural Development, including:-
  - a Arts, Cultural and Entertainment Development
  - b Sports Development, Excellence in Sport, Leisure Unlimited and Mobile Recreation
  - c Community Provision, including Village Hall and Community Projects
  - d Countryside Recreation
  - e Partnership and Resourcing
  - f Financial Assistance and Guarantees for leisure related purposes
  - g Lottery and other grants.
- 5 Highways and Road Traffic Matters, including traffic proposals (as consultees of the County Highway Authority); unadopted roads on Council estates; public footpaths and bridleways; street naming; and street lighting
- 6 Land drainage, engineering and sewer matters.
- 7 Cleansing, Grounds Maintenance and Horticultural Services, Waste Management and Refuse Collection, including litter collection; cesspool emptying; abandoned vehicles; and recycling.

- 8 Pollution Control and Environmental Issues, including sustainability issues;
- 9 Commercial Enforcement, including legislation relating to Health and Safety at work; Food Hygiene and Food Control; and Shops.
- 10 Health Promotion and Education.
- 11 Investigation and Control of Communicable Diseases.
- 12 Markets and Fairs.
- 13 Burials and Cremations under the Public Health (Control of Disease) Act, 1984.
- 14 Grant/Contributions to the Meals on Wheels Service.
- 15 Submission to the Council of an annual report on the work undertaken by the Board during the year.
- 16 Maintenance and management of the Council's land and property holdings, facilities and assets including:-
  - (a) outdoor recreational facilities
  - (b) leisure and sports centres
  - (c) Atherstone Swimming Pool and Leisure Complex
  - (d) Bodacea's Public House

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

All matters coming within its terms of reference, subject only to the call-in powers of the Scrutiny Board and the exceptions mentioned in paragraph 2 of the introduction to this part of the constitution.

## **C Powers Delegated to Officers**

### **(i) Solicitor to the Council**

- (a) Authority to institute proceedings for offences contrary to Regulations made under the Food Safety Act 1990 and, where appropriate, apply to the Magistrates' Court for a Closure Order for food premises under Sections 11 and 12 of the Food Safety Act 1990.
- (b) Authority to institute proceedings for offences under Sections 7, 8 and 14 of the Food Safety Act 1990 and the European Communities Act 1972 and Orders made thereunder.
- (c) Authority to initiate legal proceedings for seizure of equipment implicated in cases of noise nuisance (this power to be exercised in consultation with the Assistant Chief Executive (Special Projects) and the Chairman of the Board.
- (d) Authority to commence legal proceedings in respect of persons who refuse to pay fixed penalty ticket fines for dog fouling in areas of the Borough covered by the Council's Designated Order.
- (e) Arrangements for the burial or cremation of the bodies of persons in accordance with Section 46 of the Public Health (Control of Disease) Act 1984.
- (f) Authority to prosecute breaches of Anti Social Behaviour Orders.
- (e) Authority, in consultation with the Assistant Director (Streetscape) and to designate enforcement staff and agents in respect of appropriate functions and powers under the Clean Neighbourhoods and Environment Act 2005.
- (f) Authority, in consultation with the Chairman and Ward Members, to issue Notices under Section 23 of the Local Government (Miscellaneous Provisions Act 1976.
- (g) Authority to authorise officers and contractors to enter land for the purpose of inspecting and for taking such other steps as are required to make a tree safe.

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

- (a) Management of Community resources (Mini bus, Inflatable Castle etc);
- (b) Power to determine applications from outside organisations for small contributions out of the Contributions Fund for trophies etc. (This power is to be exercised after the consultation with the Chairman and Vice-Chairman of the Board).
- (c) Authority, in consultation with the Chairman, to administer the Guarantee Against Financial Loss Scheme for Outside Organisations.
- (d) Authority to investigate all possibilities, in consultation with the Chairman and Vice-Chairman of the Board, for direct applications from the Council for lottery funding.
- (e) Administration of scheme of grants to Sports Coaches, in consultation with the Chairman of the Board.

- (f) Organisation of coaching programmes at Leisure Centres and the approval of the course fees (these powers are to be exercised after consultation with the Chairman and Vice-Chairman of the Board).
  - (g) Approval of applications for use of Sports Centres, the Atherstone Leisure Complex, Atherstone Arts Centre and Recreation Grounds;
  - (h) Promotion and Marketing of Leisure Facilities (jointly with the Assistant Director (Leisure and Community Development)).
  - (i) In consultation with the Deputy Leader, Vice Chairman of the Board and Councillor Phillips, authority to enter into agreement with Parish Councils to carry out inspections on Parish Council Play Areas.
  - (j) Replacement of Play Equipment.
  - (k) Power to determine applications for the use of Council owned land by circuses and fun fairs, subject to consultation with the Chairman and Vice-Chairman of the Board and to compliance with Minute No 19 of the Leisure Services Committee meeting held on 27 July 1987.
  - (l) Authority to determine applications for Sports Passes.
  - (m) Authority to negotiate charges above the standard rate for commercial bookings of the Atherstone Memorial Hall. (This power is to be exercised in consultation with the Chairman of the Board).
  - (n) Authority, in consultation with the Chairman of the Board, to approve Bank Holiday closures at leisure facilities.
  - (o) Authority, in consultation with the Chairman of the Board, to approve closures to the Atherstone Memorial Hall.
- (iii) **Assistant Director (Streetscape)**
- (a) Overall responsibility for the management and operation of Atherstone Market.
  - (b) Authority to grant permission for local road closure orders under the provisions of Section 21 of the Town Police Clauses Act 1847, where no objections are received as a result of the local consultation process.
  - (c) Allocation and letting of football, rugby and cricket pitches; and sports pavilions;
  - (d) To determine applications by charitable organisations for the use of recreational and other facilities, including the Market Square, Atherstone, at free or concessionary rates, subject to recovery of heating, lighting and other costs from the organisation and to a report being submitted for information to the next meeting. (This power is to be exercised after consultation with the Chairman and Vice-Chairman of the Board).
  - (e) To determine all requests for free use of the Market Square, Atherstone. (This power to be exercised after consultation with the Chairman and Vice Chairman of the Board).

(iv) **Director of Community and Environment**

- (a) To select names for new streets, after consultation with the Parish or Town Council and Ward Members concerned and referring the matter to the Chairman of the Board in the event of any difference of opinion.
- (b) Authority, in relation to street naming, to:
  - (i) serve notice of objection upon developers in accordance with Section 17(2) of the Public Health Act 1925;
  - (ii) discuss disputed cases with developers; and
  - (iii) withdraw notices of objection, in appropriate cases.
- (c) Authority, in consultation with the Chairman, to spend further sums, within the available budget provision, for promoting further suitable joint partnership schemes and activities to generate additional enterprise and employment development activities within the Borough.
- (d) Authority, in consultation with the Chairman, to approve applications under the Economic Development Future Projects fund.

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

- (a) To serve Notices under the following legislation:
  - (i) The Sunday Trading Act 1994;
  - (ii) Public Health Act 1936 – Sections 45, 48 and 50 (drainage to buildings); and 83 and 85 (filthy or verminous premises or persons);
  - (iii) Prevention of Damage by Pests Act 1949 – Section 4 (infestations of rats and mice on land);
  - (iv) Public Health Act 1961 – Section 17 (drainage to buildings) and 34 (offensive accumulations);
  - (v) Control of Pollution Act 1974 – Sections 60 (noise nuisances); 61 (prior consent for work on construction sites; and 93 (authority to obtain information).
  - (vi) Health and Safety at Work Act 1974 – Section 21 (Improvement Notices) – this power may also be exercised by the Environmental Health Managers, the Senior Environmental Health Officer, Environmental Officers, Food Safety Officers, and Section 22 (Prohibition Notices) – this power may also be exercised by the Environmental Health Managers, the Senior Environmental Health Officer, the Environmental Health Officer and the Food Safety Officers.

- (vii) Local Government (Miscellaneous Provisions) Act 1976 – Sections 16 (authority to obtain information); 20 (sanitary appliances in entertainment and catering establishments); and 35 (drainage of buildings).
  - (viii) Building Act 1984 – Sections 59, 64, 65 and 66 (drainage of buildings); 69 (provision of water supplies); 81 (demolition of buildings) and 84 (paving of common yards and passages).
  - (ix) Environmental Protection Act 1990 – Enforcement, Variation, Prohibition, Abatement and Revocation Notices. (These powers may be exercised by the Environmental Health Managers, in the absence of the Assistant Chief Executive and Solicitor to the Council. Also, all Environmental Health Officers and the Senior Pollution Control Officer, the Pollution Control Officers are empowered to serve Abatement Notices under this Act).
  - (x) Authority to serve Improvement Notices under Section 10 of the Food Safety Act 1990. This power may also be exercised by the Environmental Health Managers, the Senior Environmental Health Officer, the Environmental Health Officers and Food Safety Officers.
  - (xi) Authority to serve an Emergency Prohibition Notice under the Food Safety Act 1990. (This power may also be exercised by the Environmental Health Managers and the Senior Environmental Health Officer).
  - (xii) Authority to serve Notices under Section 46 of the Environmental Protection Act 1990. (This power may also be exercised by the Environmental Health Managers in the absence of the Assistant Chief Executive and Solicitor to the Council).
  - (xiii) Authority to serve Remediation Notices in respect of contaminated food under the relevant provisions of the Environmental Protection Act 1990.
  - (xiv) Authority under Section 19A of the Meat Products (Hygiene) Regulations by virtue of the Meat (Enhanced Enforcement Powers) (England) Regulations 2002 to prohibit the use of equipment, use of part of an approved premises and to regulate the carrying on of the process in approved Meat Product Premises. (This power may also be exercised by the Environmental Health Managers, Senior Environmental Health Officer, Environmental Health Officer).
  - (xv) Authority to authorise officers to and appropriate contractors for the purposes of issuing fixed penalty notices for littering under Section 88 of the Environmental Protection Act 1990.
  - (xvi) Authority to appoint and authorise Health Protection Unit Staff for the relevant purpose under the Public Health (Control of Disease) Act 1984 and allied regulations.
- (b) To approve chimney heights and furnaces under the Clean Air Act 1993.
  - (c) To enter into agreements to carry out rodent control on a contractual basis.

- (d) To make or vary Orders under Section 4 of the Local Government (Miscellaneous Provisions) Act 1982, in relation to take away food shops.
- (e) To arrange for the cleansing or destruction of filthy or verminous articles, under Section 84 of the Public Health Act 1936.
- (f) To deal with rodent infestations on land occupied by more than one owner, under Section 6 of the Prevention of Damage by Pests Act 1949.
- (g) To arrange for the removal and disposal of animals where contraventions of licence conditions exist, under Section 4 of the Dangerous Wild Animals Act 1976.
- (h) To issue authorisations in respect of prescribed processes for local authority air pollution control under the provisions of Part 1 of the Environmental Protection Act 1990, and regulations made thereunder. (This power may be exercised by the Environmental Health Managers in the absence of Assistant Chief Executive and Solicitor to the Council.
- (i) The approval of relevant food premises under regulations made under the Food Safety Act 1990.
- (j) Determine, in consultation with the Chairman, any requests from occupiers of premises for the restoration or continuation of supplies of water, gas or electricity, under Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.
- (k) Authority, under Sections 38 and 39 of the Health and Safety at Work etc Act 1974, to institute proceedings for offences under the Act, following consultation with the Solicitor to the Council. This power may also be exercised by the Environmental Health Manager the Senior Environmental Health Officer and Environmental Health Officers.
- (l) Power, in consultation with the Chairman or Vice-Chairman to issue formal cautions in accordance with Home Office Circular 18/1994. In the absence of the Assistant Chief Executive and Solicitor to the Council, this power may be exercised by the Environmental Health Manager.
- (m) Power to grant authorisations, under Section 20 of the Health and Safety at Work etc Act 1974 to named individuals to accompany the Council's Inspectors in entering premises, these individuals to be authorised for a maximum period of 48 hours from the issue of the authorisation, to carry out under the Inspector's supervision all of the functions detailed in Section 20 of the Act (this power may be exercised, in the absence of the Assistant Chief Executive (Special Projects), by one of the two Environmental Health Managers).
- (n) Power to appoint temporary Inspectors, under Section 19 of the Health and Safety at Work etc Act 1974, with the powers of such Inspectors under Section 20 of that Act.
- (o) Power to make payments to the RSPCA each year provided that any increase is based upon the rate of inflation.
- (p) Authority to authorise any Officers he deems appropriate to carry out relevant duties under Section 108 of the Environment Act 1995.

- (q) Authority to negotiate an economic charge for house clearances etc., in appropriate cases.
- (r) Authority to revoke or suspend approvals granted under the Meat Products (Hygiene) Regulations 1994 by virtue of the Meat (Enhanced Enforcement powers) (England) Regulations 2000.
- (s) Authority to approve registrations for Motor Salvage Operators in accordance with the Vehicles (Crime) Act 2001.
- (t) The power to issue fixed penalty or other notices relating to graffiti or fly posting.
- (u) The power to stop, search and seize vehicles suspected of fly tipping (this power may also be exercised by individual officers authorised by the Assistant Chief Executive and Solicitor to the Council).
- (v) The power to authorise officers in respect of Regulations made under the European Communities Act, 1972.
- (w) To authorise the Dog Warden and other staff in the Housing Division to issue fixed penalty tickets to persons in charge of any dog in North Warwickshire for an offence of failing to remove dog faeces deposited.

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

- (vi) **Officers within the Division of the Assistant Chief Executive and Solicitor to the Council and the Assistant Director (Housing) Division.**

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

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

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

**D Powers Delegated to Area Forums**

None.

## **THE STANDARDS COMMITTEE**

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

- 1 Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- 2 Assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- 3 Advising the Council on the adoption or revision of the Members' Code of Conduct;
- 4 Advising the Council generally on matters relating to the ethical conduct of the Council and its Members;
- 5 Monitoring the operation of the Members' Code of Conduct;
- 6 Advising, training or arranging to train Councillors and co-opted Members on ethical matters, including the Members' Code of Conduct;
- 7 Granting dispensations to Councillors, and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- 8 Dealing with any allegations of a breach of the Members' Code of Conduct.
- 9 The exercise of 1 to 8 above in relation to Parish and Town Councils in North Warwickshire and the Members of those Councils.
- 10 Monitoring attendances at meetings of Boards, Committees, Panels and Area Forums;
- 11 When a Member is suspended from acting as a Councillor after being found to be in breach of the Code of Conduct, to consider suspension, in whole or part, the allowances payable to that Member.
- 12 The submission of an annual report to the Council on the work undertaken by the Committee during the year.

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

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

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

### **C Standards Sub-Committees**

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

**Any three Members of the Standards Committee shall act, as and when required, as a Standards Sub-Committee.**

**(ii) Terms of Reference**

- (a) To hear and determine any allegations of a breach of the Councillor Code of Conduct.**
- (b) To hear and determine any appeal from any determination made pursuant to (a) above.**

**D Powers Delegated to the Officers**

None.

**E Powers Delegated to Area Forums**

None.

## **THE PLANNING AND DEVELOPMENT BOARD**

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

Within the policy framework of the Council and having regard to the Structure Plan, the Local Plan, Planning Policy Guidance Notes and development briefs, to deal with the undermentioned matters. (N.B. Where the Board proposes a course of action which would be contrary to any of the above, the application or matter shall be referred to the Council for determination along with the Board's recommendation).

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

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

**B Powers Delegated to the Board**

All matters listed under heading A above.

**C Powers Delegated to Officers**

(i) **Solicitor to the Council**

- (a) A general authority to institute proceedings under Section 35 of the Building Act 1984, against any person who fails to comply with a notice served by the Assistant Director (Planning and Development) under the Building Regulations 2000.
- (b) A general authority to initiate proceedings for contraventions of the Town and Country Planning (Control of Advertisements) Regulations in relation to directional signs for housebuilding sites. (This power is to be exercised after consultation with the Assistant Director (Planning and Development) and the Chairman of the Board).
- (c) Authority to determine whether or not proceedings should be commenced in respect of alleged breaches of advertisement control.
- (d) Authority to take any enforcement action in respect of cases of unauthorised mobile snack vans/trailers adjacent to the highway.

(ii) **Director of Community and Environment**

- (a) Determination of classes of planning applications defined in the Scheme of Delegation dated June 2008 – **(Copy attached at Appendix B)**
- (b) Applications for determination under Section 64 of the Town and Country Planning Act 1990, in consultation with the Solicitor of the Council.
- (c) Determinations whether “County Matters” are involved in planning applications under Schedule 1 of the Town and Country Planning Act 1990.
- (d) Consultations, at his discretion, with neighbours on planning applications received.
- (e) Decisions under the Building Regulations 2000 and the Building Act 1984 (including taking appropriate action in respect of dangerous buildings and structures under Section 29 of the Local Government (Miscellaneous Provisions) Act, 1982 to mitigate danger).
- (f) Authority to forward to Warwickshire County Council written observations on:

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

Subject in all three cases to the proposal being assessed as a “minor” matter by the Director of Community and Environment and the Chairman and Ward Member(s) agreeing that the matter is a “minor” one and there is no dissent from the proposed observations of the Director of Community and Environment.

NB An application shall be brought before the Board for consideration where there is a disagreement on the proposed observations; where there is known public interest in the proposal; or at the discretion of the Director of Community and Environment.

- (g) Authority to make directions under Articles 4 and 5 of the Town and Country Planning General Permitted Development Order 1995 to prevent the holding of markets where there are planning grounds for doing so (this action is to be taken in conjunction with the Chairman of the Board and the Local Ward Members).
- (h) Authority to determine which planning applications should be publicised by newspaper or other advertisement, unless prescribed by legislation.
- (i) Power to issue Planning Contravention Notices, in consultation with the Solicitor to the Council.
- (j) Authority to pursue cases of alleged breaches of advertisement control.
- (k) Authority to determine whether to require an Environmental Impact Assessment Statement in respect of planning matters under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. (This power is to be exercised in consultation with Local Ward Members on individual cases, with the inclusion of the Chairman and Vice-Chairman of the Board in appropriate cases).
- (l) The submission of objections to the West Midlands Traffic Commissioner against applications under the Public Service Vehicles (Road Service Licences and Express Services) Regulations, 1980, subject to the objection being reported to the next available meeting.
- (m) The submission of objections to the West Midlands Traffic Commissioner against applications affecting bus services, after consultation with the Ward Members affected;

- (n) Notification to the party concerned of flyposting offences under the Town and Country Planning Act 1990. (This power is to be exercised on receipt of a complaint from a Member of the Council).
- (o) Power, in emergency circumstances, to make and serve Tree Preservation Orders, Building Preservation Notices and Stop Notices, in consultation with the Chairman of the Board and the Solicitor to the Council.
- (p) Authority to reject High Hedges applications on the grounds of being frivolous or vexatious, or as insufficient attempts made to resolve without the involvement of the local authority.
- (q) Authority, subject to consultation with the Local Ward Members, to either reject or uphold a High Hedges complaint once it has been registered and to issue any remedial notice.
- (r) Authority to make representations on behalf of the Local Planning Authority in respect of Applications made pursuant to the Licensing Act 2003.
- (s) Authority to make representations on behalf of the Local Planning Authority in respect of Applications made pursuant to the Gambling Act 2005.

**D Powers Delegated to Area Forums**

None.

## **THE LICENSING COMMITTEE**

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

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

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

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

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

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

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

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

- (a) To hear and determine all licensing applications made under the Licensing Act 2003 unless delegated to officers under D below.
- (b) To hear and determine all licensing and registration applications, save for those made under the Licensing Act 2003, where one or more of the following apply:-
  - the Council has received objections, adverse reports or unfavourable advice in respect of the application or the applicant
  - the relevant Officer is minded to recommend refusal of the application
  - the relevant Officer does not wish to exercise his/her delegated powers
  - the proposal is in conflict with the Council's policy or general practice.

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

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

## **D Powers Delegated to Officers**

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

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

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

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

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

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

- (e) Authority to make Closure Orders in respect of premises to be licensed under the Licensing Act 2003 if a public noise nuisance is being created.
- (f) Determination of applications under the Licensing Act 2003 defined in the Scheme of Delegation dated 22 December 2004 **(Copy attached at Appendix F)**.
- (g) Powers contained in the Licensing Act 2003 (These powers are also delegated to Mr P N Williams – Environmental Health Manager).
- (h) To authorise additional posts for the purposes of the Licensing Act 2003.
- (i) Authority in respect of Section 157 of the Gambling Act 2005 to perform the Responsible Authority role in relation to consultation and responses relating to pollution of the environment or harm to human health. (This power can also be exercised by his nominated deputy).
- (j) Determination of applications under the Gambling Act 2005 defined in the Scheme of Delegation (copy attached at Appendix G).

**E Powers Delegated to Area Forums**

None.

## **THE AREA FORUMS**

### **A Membership**

The Area Forums comprise the local Ward Councillors and the County Councillor(s) for the County Electoral Division(s). Other persons may be invited to attend for specific items or purposes.

Members of the public will be able to attend Forum meetings, but will not be entitled to speak other than when invited to do so by the Area Co-ordinator.

The Forum's roles are mainly advisory and consultative but also includes allocating a small budget to support local initiatives. The amounts allocated to the Area Forums is as follows:-

North	- £10,000
South	- £ 9,000
East	- £ 8,000
West	- £ 8,000

Only Borough Councillors are permitted to vote on the allocation of the Area Forum Funds or other funds delegated to it by the Borough Council.

### **B Terms of Reference**

- 1 To offer advice to the Borough Council and its Boards from its stock of local knowledge.
- 2 To comment on any matter referred to it by the Borough or County Council.
- 3 To submit nominations to the Borough Council for persons to serve as representatives on outside bodies where the organisation is based in or operates solely in the Forum's area.
- 4 To be consulted, time permitting having regard to statutory and other deadlines, on:
  - a Highway schemes, highway maintenance and street lighting proposals,
  - b traffic regulation proposals, including traffic calming measures,
  - c parking places orders,
  - d street cleaning,
  - e street naming and signing,
  - f proposals affecting the Rights of Way Definitive Map and individual order proposals for public footpaths and bridleways in the area,
  - g community safety initiatives/local police matters,
  - h the North Warwickshire Sustainable Community Strategy
  - i Local Development Framework reviews,
  - j significant planning applications and development briefs,

- k proposals to designate Conservation Areas,
  - l environmental improvement schemes,
  - m Public Entertainment Licence applications and Street Trading Consent applications,
  - n road closure orders,
  - o location of taxi ranks,
  - p significant proposals affecting Council owned land,
  - q any proposal which will significantly affect the local environment.
- 5 To consider applications for funding to support local initiatives in accordance with the criteria set out in E below (only Borough Councillors are permitted to vote on the allocation of such funds).
- 6 Submission to the Council of an annual report on the work undertaken by Area Forums, during the year.

**C Powers Delegated to the Forum**

The allocation of funds to support local initiatives in accordance with the criteria set out in E below (only Borough Councillors are permitted to vote on the allocation of such funds).

**D Powers Delegated to the Officers**

None.

**E Criteria for Allocation of Expenditure**

- 1) Proposals must be made by a Parish Council or properly constituted community organisation with a bank account.
- 2) All proposals must be endorsed by at least one Ward Member for the Area.
- 3) Not more than 60% of the total pot can be allocated to a particular scheme.
- 4) The funds allocated must be met by at least 50% match funding from Parish/Town Councils and 30% match funding from other bodies.
- 5) Projects should be able to identify a “link” to at least one of the current themes of the Sustainable Community Plan and be able to identify clear benefits to the local community.
- 6) Retrospective applications will not be considered.
- 7) If a more appropriate source of support can be identified, applicants will be directed to that source accordingly.

- 8) Organisations will not be allowed to seek direct support from more than one source of Borough Council funding (eg, through schemes administered through Community & Environment Board).
- 9) Applications must be received at least 21 days before the meeting of the Forum at which they are to be considered.

## **THE SCRUTINY BOARD**

### **A Responsibilities**

The Council will appoint a Scrutiny Board, to discharge the functions conferred by regulations under Section 32 of the Local Government Act 2000.

### **B Main Terms of Reference**

#### **1 General Role**

The Scrutiny Board will in particular:

- (i) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) Make reports and/or recommendations to the Full Council and/or any Policy Board or Area Forum in connection with the discharge of any functions;
- (iii) Consider any matter affecting the Council or its area;
- (iv) Exercise the right to call in, for re-consideration, decisions made but not yet implemented by any Policy Board or Area Forum (as set out in Standing Order No.31 of the Council's Procedural Standing Orders in Part 4 of this Constitution)

#### **2 Specific Functions**

##### **(a) Policy Development and Review**

The Scrutiny Board will:

- (i) Assist the Council in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) Question Members of Policy Boards, Area Forums and Officers about their views on issues and proposals affecting the area; and
- (v) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

##### **(b) Scrutiny**

The Scrutiny Board will,:

- (i) Review and scrutinise the decisions made by and the performance of Policy Boards, Area Forums and Council Officers both in relation to individual decisions (except for individual employee issues, individual decisions on the conduct of Members and individual decisions of the Planning and Development Board) and over time;
- (i) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) Question Members of the Policy Boards, Area Forums and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions (except for decisions on individual employee issues, individual decisions on the conduct of Members and individual decisions of the Planning and Development Board, or decisions of Officers acting under delegated powers, relating to individual applications of a regulatory nature), initiatives or projects;
- (iv) Make recommendations to the appropriate Policy Board, Area Forum and/or Council arising from the outcome of the scrutiny process;
- (v) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and
- (vi) Question and gather evidence from any person (with their consent).

(c) **Finance**

The Scrutiny Board will exercise overall responsibility for the finances made available to it.

(d) **Annual Report**

The Scrutiny Board will report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate..

**C Powers delegated to the Boards**

None – the Scrutiny Board will submit recommendations for consideration by the Council, the relevant Policy Board(s) or Area Forum.

**D Powers delegated to Officers**

None.

**E Powers delegated to Area Forums**

None.

## **F Meanings**

In Part B above, "Officer" means the Chief Executive, Directors, Assistant Directors, the Assistant Chief Executive and any other Officer with his or her agreement and the agreement of his or her manager.

**North Warwickshire  
Borough Council**



**Scheme of Delegation to the  
Director of Community and Environment  
in respect of the Determination  
of Planning Applications**

**June 2008**

## 1. INTRODUCTION

- 1.1 This Scheme of Delegation enables the Director of Community and Environment to undertake certain functions without reporting first to the Council's Planning and Development Board. The legal basis for this delegation from the Board is contained in Section 101 of the Local Government Act 1972, as amended. This requires that a list of those functions is kept, and that it be made available for public inspection. This Scheme fulfils that role.
- 1.2 In practice, delegation means the Director of Community and Environment taking executive action on behalf of the Council. In the delivery of the planning control service, that means determining planning applications, and making decisions on related matters. The 'boundaries' for this delegation are outlined below by clearly stated and published rules.

## 2. THE PURPOSE OF DELEGATION

2.1 The purpose of delegation is to:

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

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

## 3. THE CONTEXT OF DELEGATION

- 3.1 This Scheme of Delegation takes into account the following matters which have provided the background against which it has been adopted.
- ❖ **The Development Plan:** The Planning legislation describes the concept of a "plan-led" decision making process, whereby planning decisions should be taken in accordance with the Development Plan. The Council's approach to new development proposals is thus already laid out in this Plan, and decisions on individual planning applications can be made accordingly.

- ❖ **The Nolan Report on Standards in Local Government:** This has led the Council to review its procedures in respect of matters to do with the probity and accountability of its decision making processes. This Scheme of Delegation respects these Standards.
- ❖ **The Human Rights Act 1998:** This Act requires the Council to act in a way which is compatible with European Convention Rights. This Scheme of Delegation has been prepared in this knowledge.

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

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

##### **A) Applications**

- 4.1 The following applications that are submitted to North Warwickshire for determination, will be decided by the Planning and Development Board, following consideration of a written report from the Director of Community and Environment which will contain a written recommendation in all cases:
- a) All applications that constitute material departures from the Development Plan.
  - b) All applications that are required to be accompanied by an Environmental Impact Statement.
  - c) All applications where an approval will involve a legal agreement under Planning legislation.
  - d) All applications that are made wholly, jointly, or on behalf of North Warwickshire Borough Council, whether on Borough Council land or not, and any application that is made on Borough Council land.
  - e) All major applications that are made by the County Council, or that are made jointly, or on behalf of Warwickshire County Council whether on its own land or not, within North Warwickshire.
  - f) Any application that is submitted by or on behalf of any Member of the Council, any member of staff employed in the Planning and Development Division or any other officer who holds a 'politically restricted' post.

- g) Any application where a request based on material planning considerations is made in writing to the Director of Community and Environment by any Borough Councillor for referral of that application to the Board.
- h) Any application where the Director of Community and Environment considers it appropriate to report to the Board for determination.
- i) Any application where a statutory consultee has submitted an objection in writing, but yet where a recommendation of approval is to be made by the Director of Community and Environment.
- j) Any application where, following the receipt of representations that are contrary to the Director of Community and Environment's recommendation, and where either the Chair or Vice Chairman of the Planning and Development Board, or the Local Ward Member(s), disagree with that recommendation.

4.2 In all other cases, the determination of applications is delegated to the Director of Community and Environment. Each determination shall be accompanied by a written report outlining the reasoning for that determination.

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

## **B) Consultations**

4.4 When an application is:

- ❖ submitted to the Warwickshire County Council as the Minerals Planning Authority, or the Waste Local Authority for determination, and North Warwickshire has been consulted for its observations on that application, or
- ❖ when an application is submitted to a neighbouring Local Planning Authority for determination, and that Authority has consulted North Warwickshire for its observations on that application, or
- ❖ when the Council is consulted by others on matters under legislation other than planning legislation, but where these matters are related to planning considerations, then

the principles outlined in paragraph 4.1 will apply as to whether the observations of the Council shall be made by the Director of Community and Environment under delegated powers, or by the Planning and Development Board.

4.5 In all of the above cases, where the observations are forwarded by the Director of Community and Environment under delegated powers, then:

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

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

## **5. MEMBER INVOLVEMENT**

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

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

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

## **6. REVIEW DATE**

6.1 This Scheme of Delegation will be reviewed by April 2011.



## **APPENDIX C**

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

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

### **2 EXECUTIVE POWERS OF THE SOLICITOR TO THE COUNCIL IN RELATION TO THE PROTECTION OF PROPERTY AND LEGAL PROCEEDINGS.**

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

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

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

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

**PROPER OFFICER POWERS**

**A CHIEF EXECUTIVE**

<b>Legislation</b>	<b>Function</b>
1. Local Government Act 1972 - Section 39	To act as Electoral Registration Officer
2. Local Government Act 1972 - Section 83(1) to (4)	To witness and receive Declarations and Acceptances of office
3. Local Government Act 1972 - Section 84	To receive resignations of office
4. Local Government Act 1972 - Section 88(2)	To convene meetings to fill casual vacancies in the office of Mayor
5. Local Government Act 1972 - Section 89(1)(b)	To receive notice of casual vacancy for a Councillor
6. Local Government Act 1972 - Section 248	Keeping the Roll of Freemen of the Borough
7. Local Government Act 1972 - Schedule 12 Paragraph 4(2)(b) Paragraph 4(3)	Summons to Council Meetings Receipt of notices of address to which summons to meetings may be sent
8. Local Government Act 1972 - Sections 100B; 100C; 100D; and 100F, as inserted by Section 1 of the Local Government (Access to Information) Act 1985	
Section 100B(2)	Circulation of Reports and Agendas
Section 100B(7)(c)	Supply of papers to the press
Section 100C(2)	Summary of minutes concerning exempt business
Section 100D(1)(a)	Compilation of list of background papers
Section 100D(5)(a)	Identification of background papers
Section 100F(2)	Identification of documents which are not open to inspection by Members of the Council

(The powers listed at A1 to A7 may, in the absence of the Chief Executive, be exercised by the Solicitor to the Council. The powers listed under A8 may, in the absence of the Chief Executive, be exercised by the Assistant Chief Executive).

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

**B SOLICITOR TO THE COUNCIL**

1. Ordnance Survey Act 1841, as amended by Section 191 of the Local Government Act 1972 For the certification of boundaries
2. Local Government Act 1972 – Section 229(5) Certification of Photographic copies of documents
3. Local Government Act 1972 – Section 234(1) and (2) Authentication of Documents
4. Local Government Act 1972 – Section 236(9) and (10) Transmission of copies of byelaws
5. Local Government Act 1972 – Section 238 Certification of byelaws
6. Local Government Act 1972 Schedule 14 (Paragraph 25(7)) Certification of Resolutions
7. Local Government Act 1972 Schedule 6 – Paragraph 1 To act as Deputy to the Electoral Registration Officer

## **C DIRECTOR OF RESOURCES**

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

(The power listed under B3 and B5 will, in the absence of the Director of Resources, be exercised by the Assistant Director (Finance and Human Resources)).

## **D DIRECTOR OF COMMUNITY AND ENVIRONMENT**

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

## **E ASSISTANT CHIEF EXECUTIVE**

1. Local Government Act 1972 - Section 225(1) Deposit of documents
2. Proper Officer powers in relation to any reference in any enactment passed before or during the 1971/72 session of Parliament (other than the Local Government Act 1972) or in an instrument made before 26th October 1972 to the Medical Officer of Health or to the Public Health Inspector of a Council which by virtue of any provision of the Local Government Act 1972 was to be construed as a reference to the Proper Officer of the Council.
3. Local Government Act 1972 - Schedule 14 - Paragraph 13 Sections of the Public Health Act, 1936 relating to infectious diseases and affected premises
4. Environmental Protection Act 1990 - Section 149(1) Discharge of functions imposed or conferred under the Section for dealing with stray dogs
5. Public Health (Control of Disease) Act 1984 - Sections 24, 31 and 32 Control of notifiable disease and food poisoning

**NB**

- (i) **The powers listed at 2, 3 and 5 may, in the absence of the Assistant Chief Executive be exercised by either of the Environmental Health Managers.**
- (ii) **In relation to Statutory Notices served under the provisions of all relevant legislation for which the Assistant Chief Executive is the Proper Officer, the power to sign such Notices may, in his absence, be exercised the, Environmental Health Managers.**

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

- (i) Proper Officer powers in relation to Sections 11, 18, 20, 21, 22, 24, 29, 31, 36, 40, 42, 43 and 48 of the Public Health (Control of Disease) Act 1984.
- (ii) Section 47 of the National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951.
- (iii) Public Health (Infectious Diseases) Regulations 1988, Regulations 6, 8, 9, 10 and Schedules 3 and 4.

**AUTHORISED OFFICER POWERS**

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

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

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

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

The Public Health Acts 1936-68  
The Public Health (Recurring Nuisances) Act 1969  
The Housing Act 1985  
The Housing Act 1996  
The Housing Grants, Construction and Regeneration Act 1996  
The Building Act 1984  
The Food and Environment Protection Act 1985  
The Prevention of Damage by Pests Act 1949  
The Clean Air Act 1993  
The Control of Pollution Act 1974  
The Pet Animals Act 1951  
The Animal Boarding Establishments Act 1963  
The Riding Establishments Acts 1964-1970  
The Breeding of Dogs Act 1973  
The Water Act 1945  
The Slaughter of Poultry Act 1967  
The Slaughterhouses Act 1974  
The Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
The Scrap Metal Dealers Act 1964  
The Civic Amenities Act 1967  
The Refuse Disposal (Amenity) Act 1978  
The Caravan Sites Act 1968  
The Caravan Sites and Control of Development Act 1960  
The Public Health (Control of Disease) Act 1984  
The Dangerous Wild Animals Act 1976  
The Health and Safety at Work Etc Act 1974  
The Animal Health Act 1981  
The Disease of Animals Acts 1950-1975  
The Environmental Protection Act 1990  
\*The Food Safety Act 1990  
The Environment Act 1995

The Pollution Prevention and Control Act 1999

The Licensing Act 2003 Part 3 Section 13 Responsible Authority

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

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

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

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

Authorised Officer powers for the purposes of the Building Act 1984

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

Authorised Officers under Part III of the Food and Environmental Protection Act 1985, and all Orders and Regulations made thereunder.

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

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

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

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

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

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

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

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

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

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

**L LICENSING ENFORCEMENT OFFICERS**

Authorised to carry out all aspects of the Council's duties and responsibilities (including licensing access to premises) under the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1976 and 1982; The Town Police Clauses Act 1847 and the Transport Act 1985, The Licensing Act 2003 and the Gambling Act 2005, including all Orders and Regulations made thereunder.

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

- The Pet Animals Act 1951
- The Animal Boarding Establishments Act 1963
- The Riding Establishments Act 1964 and 1970
- The Breeding of Dogs Act 1973
- The Dangerous Wild Animals Act 1976
- House to House Collections Act 1939
- Lotteries and Amusements Act 1976
- Regulations made by the Council in respect of Street Collections under the Charitable Collections (Transitional Provisions) Order
- The Environmental Protection Act 1990
- The Clean Neighbourhoods Act 2005
- The Dogs (Fouling of Land) Act 196
- The Anti-Social Behaviour Act 2003

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

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

**N FOOD SAFETY OFFICERS**

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

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

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

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

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

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

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

**LICENSING COMMITTEE – SCHEME OF DELEGATION**

**APPENDIX F**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

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

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

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

## **PROCEDURAL STANDING ORDERS**

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## **PROCEDURAL STANDING ORDERS**

### **COUNCIL MEETINGS**

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

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

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

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

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

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

3. (1) The Mayor (or in his/her absence, the Deputy Mayor) will chair meetings of the Council. In their absence, the Council will choose another Member to chair the meeting
- (2) Any of the Mayor's powers or duties for conducting a meeting may be exercised by the Member who chairs the meeting.
- (3) The Mayor may temporarily adjourn proceedings at any point in the meeting without further discussion or putting the matter to the vote.

## **COUNCIL MEETINGS**

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

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

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

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

## **COUNCIL MEETINGS**

- (3) The business to be transacted at the Annual Meeting of the Council shall be as set out in paragraph (1) above but with the addition of items for the election of Mayor and Deputy Mayor and, in a year of ordinary elections, to receive the Returning Officer's return of Councillors elected.

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

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

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

7. (1) A Member may ask the Chairman of a body (or, if appropriate, the relevant Portfolio Holder) any question about an item in that body's minutes when that item is under consideration by the Council.
- (2) If notice is given under paragraph (3) below, a Member may ask the Mayor, the relevant Chairman or Portfolio Holder, a question about any matter directly affecting the borough or for which the Council has responsibilities.
- (3) Written notice of a question under paragraph (2) must be delivered in writing or sent by electronic mail or facsimile transfer to the Chief Executive by 9.30 am two working days before the day of the meeting. However, the Mayor, if satisfied that it is urgent, can allow a question to be put, if written notice is received by the Chief Executive by 10.00 a.m. on the day of the meeting through one of the delivery methods referred to above.
- (4) A question must be asked and answered without discussion. The Member questioned can decline to answer.
- (5) An answer can be:
- (a) spoken;
  - (b) written and circulated to Members at the meeting,
  - (c) written and circulated to Members within 7 days of the meeting; or
  - (d) by reference to a Council publication or other published work that contains the information requested.

## **COUNCIL MEETINGS**

- (6) All questions asked under this Standing Order shall be questions of fact only and not of opinion.
- (7) No questions shall be put to an officer of the Council, except with the consent of the Council.
- (8) The Mayor may disallow questions:-
  - (a) if in an unsuitable form or if frivolous in character; or
  - (b) where an answer would not, in the Mayor's opinion, be in the interest of the public or of the Council; or
  - (c) which, at an extraordinary meeting, do not relate to the particular business to be transacted

### **Questions by the Public**

#### **General**

- (9) At each ordinary meeting of the Council, 20 minutes shall be set aside for questions from the public gallery by any resident of the Borough concerning the work of the Council.

#### **Notice of Questions**

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

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

#### **Scope of Questions**

- (11) The Chief Executive may reject a question if, in his opinion, it:
  - is not about a matter for which the Council has a responsibility or which affects the Borough;
  - is substantially the same as a question which has been put at a meeting of the Council in the past six months;
  - is defamatory, frivolous, vexatious or offensive;
  - requires the disclosure of confidential or exempt information; or
  - relates to a planning application, licensing application or any matter of a personal nature.

## **COUNCIL MEETINGS**

- (12) The Mayor will invite the relevant Chairman or Portfolio Holder to give the reply. Such reply shall not exceed 5 minutes. At the discretion of the Mayor, a supplementary question may be asked if arising directly from the reply, provided that the original allocation of 5 minutes is not exceeded.

### **Number of Questions**

- (13) At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of any one organisation.

### **Order of Questions**

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

### **Record of Questions**

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

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

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

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

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

## **COUNCIL MEETINGS**

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

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

## **COUNCIL MEETINGS**

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

#### **Procedure**

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

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

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

#### **Motion not Moved**

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

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

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

#### **Scope**

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

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

11. (1) Voting at Council meetings will be by a show of hands unless 3 Members, before the vote is taken, stand and request a recorded vote to show how each Member voted. In a recorded vote, the name of any Member abstaining from voting must also be recorded.
- (2) If the number of votes for and against a proposal are equal, the Mayor has a second or casting vote.

## **COUNCIL MEETINGS**

- (3) Immediately after a vote is taken, a Member may require that there shall be recorded in the minutes of the proceedings of that meeting whether that person voted for or against the proposal or whether he/she abstained from voting.
- (4) If more than two persons are proposed for any position to be filled by the Council, and no-one receives more than half of the votes cast, the person with the least number of votes will cease to be a candidate and a fresh vote will be taken. This procedure will continue until one person obtains more than half the votes, but if at the end of this procedure, there are only two persons remaining and neither of them secures more than half of the votes cast, because of abstentions or for any other reason, the person with the greater number of votes will be appointed to the office.

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

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

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

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

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

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

**\*To be Proposed and seconded**

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

**\*Secunder's Speech**

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

**\*Alteration of Motion**

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

**\*Withdrawal of Motion**

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

**Rescinding of Motion**

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

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

**RULES OF DEBATE  
FOR COUNCIL MEETINGS**

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

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

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

**One Member to stand at a time**

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

**Content of Speeches**

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

**Length of Speeches**

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

**When a Member may Speak again**

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

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

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

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

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

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

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

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

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

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

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

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

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

**RULES OF DEBATE  
FOR COUNCIL MEETINGS**

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

**Points of Order / Personal Explanations**

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

**Respect for Chair**

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

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

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

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

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

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

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

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

## **BOARDS, COMMITTEES, PANELS AND FORUMS**

### **STANDING ORDER No. 23**

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

23. (1) The Council will, at its Annual Meeting, appoint such Boards, Committees, Panels, Forums and Portfolio Holders as it is required to appoint under any statute or by virtue of its Constitution.
- (2) The Council will, at the Annual Meeting, decide how many Members will serve on each of the above bodies it appoints for the forthcoming year and will appoint their Chairmen and Vice-Chairmen (with the exception of the Standards Committee which shall appoint its own Chairmen and Vice-Chairmen) together with other Members after considering recommendations from the Leader of the Council and the Leaders of the other political groups on the Council. The Council, on the recommendation of these Members, will also appoint the Portfolio Holders
- (3) The Council can, at any time:-
- (a) appoint other Boards, Committees, Panels, Forums, other bodies or Portfolio Holders; or
  - (b) dissolve or alter the Membership of any Board, Committee, Panel or Forum it appoints or change a Portfolio Holder appointment.
- (4) A body can appoint, from its own Members, Panels, Sub-Committees or Task and Finish Groups for purposes specified by the appointing body within its terms of reference. When such a Panel, Sub-Committee or Task and Finish Group is appointed, the Chairman and Vice-Chairman of the appointing body are automatically Members of the Panel, Sub-Committee or Task and Finish Group concerned and are, respectively, its Chairman and Vice-Chairman, unless they inform the Chief Executive to the contrary.
- (5) The minutes of a Panel, Sub-Committee or Task and Finish Group must be reported to its parent body for approval or, if it has delegated powers, for information.
- (6) No Member's term of office on one of these bodies will extend beyond the date of the next Annual Meeting of the Council, with the exception of the Independent Members of the Standards Committee who may be appointed for periods of longer than one year.
- (7) A resignation of a Member from a Board, Committee, Panel, Forum, Sub-Committee or Task and Finish Group will take effect when written notice is received by the Chief Executive.
- (8) Casual vacancies on Boards, Committees, Panels or Forums caused by death, resignation or disqualification will be filled by the Council. Casual vacancies on bodies appointed under Standing Order No. 23(4) will be filled by the parent Body.

## **BOARDS, COMMITTEES, PANELS AND FORUMS**

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

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

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

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

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

## **BOARDS, COMMITTEES, PANELS AND FORUMS**

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

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

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

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

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

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

27. (1) No business can be dealt with at a Standards Committee meeting unless at least 3 Members are present, one of whom must be an independent Member and another of whom must be a Borough Councillor.
- (2) If there is no quorum, the meeting must be adjourned immediately and any remaining business, postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, to the next ordinary meeting.
- (3) Where the Standards Committee is dealing with a Parish Council matter then, in addition to the requirements in paragraph (1) above, the meeting shall not be quorate unless at least one of the Parish Council Members is present throughout the consideration of the Parish matter under discussion.

## **BOARDS, COMMITTEES, PANELS AND FORUMS**

### **STANDING ORDER No. 28 Chairing the Meeting**

28. (1) The Chairman (or in his/her absence, the Vice-Chairman) of each body will chair the meeting. In their absence, the other Members present will choose one of their number to chair the meeting.
- (2) Any of the Chairman's powers or duties for conducting a meeting may be exercised by the Member who chairs the meeting.

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

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

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

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

## BOARDS, COMMITTEES, PANELS AND FORUMS

- (5) This Standing Order will not apply to any decision of a relevant body on:
- (a) an application which requires a decision to be made within a specified time which will expire before the date of the next ordinary Council meeting, if the delay would invalidate that decision; and
  - (b) the appointment of an Officer to fill a vacancy in the service of the Council

### **STANDING ORDER No. 31 Scrutiny: Call-In Procedure and Arrangements**

31. (1) When decisions are made by a Policy Board or Area Forum, the Chairman and Vice Chairman of the relevant Scrutiny Board will be sent a record of them by the Assistant Chief Executive.
- (2) That record will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the date of the decision, unless the Chairman of the Scrutiny Board (or the Vice Chairman in his/her absence) calls it in, by notice in writing, by electronic mail or by facsimile transfer addressed to the Chief Executive, whereupon the decision shall stand referred to the next ordinary meeting of the Scrutiny Board and shall be treated as though the Policy Board or Area Forum had not exercised its delegated powers in relation to such item.

#### **N.B. The right to call in will only apply:-**

- (i) where, in the opinion of the Monitoring Officer, there is evidence to suggest that a Policy Board or Area Forum took a decision which was not in accordance with the principles set out in Article 12 (Decision Making) in Part 2 of this Constitution; and/or**
  - (ii) to those decisions which do not come within the exceptions set out in paragraph (7) below.**
- (3) If there is no meeting of the Scrutiny Board planned within the following ten working days then, where possible, the Chief Executive after consultation with the Chairman of the Scrutiny Board, may call an additional meeting on such date as he/she may determine, and such a meeting should be held within fifteen working days of the decision to call-in. The Chief Executive shall also at the earliest practicable date notify the Chairman of the relevant Policy Board or Area Forum of the call-in.
- (4) If having scrutinised the decision, the Scrutiny Board is still dissatisfied, it may either
- (i) Refer the decision back to the relevant Policy Board or Area Forum for reconsideration, setting out in writing the nature of its concerns, along with any recommendation and further matters as appropriate. The Board or Forum shall reconsider the decision within a further ten working days, amending the decision or not, before adopting a decision which will be final

## **BOARDS, COMMITTEES, PANELS AND FORUMS**

or

- (ii) Refer the matter to Full Council. However, matters may only be referred to the Full Council if the Scrutiny Board consider that the decision is contrary to the policy framework or budget set by the Full Council. The decision taken by the Council will be final.
- (5) The decision to refer a matter either for reconsideration to the original Board or Forum making the decision or to Full Council must be taken by the Scrutiny Board on the basis of a simple majority vote.
- (6) If, following the call-in of an item, the Scrutiny Board does not meet in the period set out in (3) above, or does meet but does not refer the matter back to the relevant Policy Board or Area Forum, or to the Council, then the decision shall take effect on the day after the expiry of the date set out in (3) above or the date of the Scrutiny Board meeting, as the case may be.
- (7) In order to ensure that the call-in process is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use, as follows:
  - (a) Decisions may only be called in once;
  - (b) Decisions may not be called in where they substantially relate to a matter which has been considered by the Scrutiny Board during the preceding six months;
  - (c) Save in exceptional circumstances, the Scrutiny Board may call-in no more than five decisions every three months;
  - (d) Where decisions involve expenditure or reductions in service, only those over a value of £25,000 per annum may be called in; and
  - (e) Decisions may not be called in where they relate to individual employee issues, individual decisions on the conduct of Members and individual decisions of the Planning and Development Board and the Licensing Committee.
- (8) The call-in procedure set out above shall not apply where a decision being taken by a Policy Board or Area Forum is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of the Council, the public, or one or more individuals. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Head of Paid Service or his/her nominee, the decision is an urgent one, and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (9) In the absence of notice to the contrary, the Chief Executive and Senior Officers shall be entitled to assume that any decision taken and resolved by an Policy Board or Area Forum pursuant to its delegated powers, should be implemented and the action taken by the Chief Executive or any Senior Officer to implement such a resolution will be that considered to be the most sensible, practical and efficient way to achieve the policy or activity so resolved.
- (10) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Head of Paid Service or his/her nominee, and a report submitted to Council with proposals for review if necessary.

## **BOARDS, COMMITTEES, PANELS AND FORUMS**

### **STANDING ORDER No 32**

#### **Rules of Debate for Board, Committee, Panel and Forum Meetings**

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

## **MEETINGS GENERALLY**

### **STANDING ORDER No.33 Notice of and Summons to Meetings**

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

### **STANDING ORDER No.34 Record of Attendances**

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

### **STANDING ORDER No.35 Attendance by Councillors at Meetings of which they are not Members**

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

### **STANDING ORDER No. 36 Admission to and Exclusion from Meetings**

36. Members of the public and press may only be excluded from meetings either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Standing Order No. 37 (Disturbance by Members of the Public).

## **MEETINGS GENERALLY**

### **STANDING ORDER No. 37 Disturbance by Members of the Public**

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

### **STANDING ORDER No.38 Recordings at Meetings and other apparatus**

38. (1) Any Member of the Council, the public or the press attending Council, Board, Committee, Panel or Forum meetings may take written notes of the proceedings.
- (2) Subject to the exception in paragraph (4), no one, however, may bring into the meeting room any recording or communication apparatus of any other kind, unless the Chief Executive has given written permission beforehand or the meeting so allows. If anyone does so without permission, the person chairing the meeting can either order the person to leave at once and/or adjourn the meeting for as long as he/she considers necessary.
- (3) For the purpose of this Standing Order, "apparatus" in paragraph (2) means any equipment capable of producing a televised, video, photographic, film, sound or typewritten record whether for immediate transmission or subsequent use, or an active mobile phone or any other such apparatus.
- (4) A Member of the Council, in exceptional circumstances and with the approval of the person chairing the meeting, may be allowed to leave his/her mobile phone active for the purpose of receiving an anticipated emergency call, which shall then be answered outside the meeting room.

### **STANDING ORDER No. 39 Access to Information**

39. (1) Where a Member has the right to inspect or copy any document, that right must not be exercised in respect of a document about any matter in which the Member is professionally interested or in which he/she has, directly or indirectly, any personal interest within the meaning of the Local Authorities (Model Code of Conduct) (England) Order 2001 or which is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- (2) Any Member wishing to inspect a document not open to the public must, where practicable, give reasonable notice to the Chief Executive in advance so that the document can be made available.
- (3) All minutes (and other documents that are open to inspection) can be seen by Members during office hours.

## **MEETINGS GENERALLY**

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

### **STANDING ORDER No. 40 Adjournments**

- 40. Where a meeting or debate is adjourned under Standing Order No. 3,19 or 21:-
  - (a) the adjournment of an ordinary meeting may not extend beyond the date of the next ordinary meeting;
  - (b) the Member who moved the adjournment will be entitled to speak first once the adjourned debate or meeting is resumed;
  - (c) the only business which may be discussed at the resumed meeting is that set out in the summons for the adjourned meeting; and
  - (d) when a meeting is adjourned for more than 24 hours, the Chief Executive must send notice of the adjourned meeting to each Member of the Council or body concerned. The notice must specify the business to be dealt with.

## **MISCELLANEOUS MATTERS**

### **STANDING ORDER No.41 Appointment of Representatives on Outside Bodies**

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

### **STANDING ORDER No. 42 Restrictions on Inspections and Issuing Orders**

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

### **STANDING ORDER No.43 Suspension and Alteration of Standing Orders**

#### **Suspension**

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

## **MISCELLANEOUS MATTERS**

### **Alteration**

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

### **STANDING ORDER No.44 Standing Orders to be Given to Members**

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

### **STANDING ORDER No 45 Interpretation**

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

"Area Co-ordinator" means the Chairman of an Area Forum

"Body" means a Board, Committee, Panel or Area Forum.

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

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

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

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

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

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

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

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

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

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

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

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

## ACCESS TO INFORMATION PROCEDURE RULES

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## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, the three Policy Boards (Executive; Resources; and Community and Environment), the Planning and Development Board and Licensing Committee, the Scrutiny Board, the Standards Committee, the Area Forums and any other Panels or meetings involving Members which are open to the public (collectively referred to in these Rules as “meetings”).

### **2. ADDITIONAL RIGHTS TO INFORMATION**

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

### **3. RIGHTS TO ATTEND MEETINGS**

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

### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at The Council House, South Street, Atherstone, except where urgency requires meetings to be called at shorter notice.

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

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

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

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

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

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

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

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

## **8. BACKGROUND PAPERS**

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

The Chief Executive will set out in every report, which under paragraph 5 above is available for public inspection, a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report.

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

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

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

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

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

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential Information – Requirement to Exclude Public**

The public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed. (Please see Rule 10.3 below for the definition of confidential information).

### **10.2 Exempt Information – Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt

information would be disclosed. (Please see Rule 10.4 below for the definition of exempt information).

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 10.3 **Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any legislation or a Court Order.

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

Exempt information means information falling within the following 7 categories.

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege, could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:-
  - a to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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

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

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

## SCRUTINY PROCEDURE RULES

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## SCRUTINY PROCEDURE RULES

**1. The number and arrangements for the Scrutiny Board**

The Council will have Scrutiny Board set out in Article 6 of Part 2 of this Constitution and will appoint to them as it considers appropriate from time to time. Such Boards may appoint Task and Finish Groups for a fixed period, or specific task, on the expiry of which they shall cease to exist.

**2. Terms of Reference**

The terms of reference for the Scrutiny Board and their areas of responsibility are set out in Article 6 of Part 2 of this Constitution.

**3. Membership of the Scrutiny Board**

With the exception of the Leader and the Deputy Leaders of the Council, all other Councillors may be Members of the Scrutiny Board, but no Member may be involved in scrutinising a decision in which he or she has been directly involved.

**4. Chairman and Vice Chairman of the Scrutiny Board**

The Members appointed as Chairman and Vice Chairman of the Scrutiny Board may be Members of the Council's Policy Boards subject only to the restrictions applying to other Councillors.

**5. Co-optees**

The Scrutiny Board and Task and Finish Group shall be entitled to recommend to Council the appointment of up to two people as non-voting co-optees who may or may not be Members of the Council.

**6. Meetings of the Scrutiny Board**

There shall be at least three ordinary meetings of the Scrutiny Board in each year. Additional meetings may be called from time to time as and when appropriate. An additional meeting may be called by the Chairman of the Scrutiny Board, by any three Members of a Board or by the Chief Executive if he/she considers it necessary or appropriate.

**7. Quorum**

The quorum for the Scrutiny Board shall be as set out in Standing Order No. 26 in the Procedural Standing Orders in Part 4 of this Constitution, namely 25% of its total Membership, including any co-optees.

## 8. **Work Programme**

The Scrutiny Board and their Task and Finish Groups will, within their respective terms of reference, be responsible for setting their own work programmes and in doing so they shall take into account the wishes of all their Members. The Boards and Groups shall also discuss their proposed annual work programme with the Leader of the Council as regards policy development and overview matters and shall also consider requests for up to 5 policy studies from each Policy Board, as part of the budget and policy framework.

## 9. **Agenda Items**

- (a) Any Member of the Scrutiny Board or a Task and Finish Group shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Board or Task and Finish Group to be included on the agenda for the next available meeting. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
- (b) Any three Members of the Council who are not Members of the Scrutiny Board may give written notice to the Chief Executive that they wish an item to be included on the agenda of that Board. If the Chief Executive receives such a notification, then he/she will include the item on the first available agenda of the Scrutiny Board for consideration .
- (c) The Scrutiny Board shall also respond, as soon as its work programme permits, to requests from the Council, and, if appropriate, Policy Boards, to review particular areas of Council activity. Where it does so, the Scrutiny Board shall report its findings and any recommendations back to the relevant Policy Boards and/or the Council. The Council and/or the relevant Policy Boards shall consider the report of the Scrutiny Board not later than the next ordinary meeting.
- (d) Any request received by the Assistant Chief Executive and Solicitor to the Council made under the Councillor Call for Action shall become an item at the next meeting of the Scrutiny Board.
- (e) Any item referred to the Scrutiny Board under the Council Petition Scheme will become an item at the next meeting of the Scrutiny Board.

## 10. **Policy Review and Development**

- (a) The role of the Scrutiny Board in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Scrutiny Board or Task and Finish Groups may make proposals to the Policy Boards for developments in so far as they relate to matters within their terms of reference.
- (c) The Scrutiny Board may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct

public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

**11. Reports from the Scrutiny Board**

- (a) Once the Scrutiny Board has completed its deliberations on any matter it will prepare a formal report and submit it to the Chief Executive for consideration by the relevant Policy Board (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- (b) If the Scrutiny Board cannot agree on one single final report to the Council or the relevant Policy Board, as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Policy Board with the majority report.
- (c) The Council or Policy Board shall consider the report of the Scrutiny Board at its next ordinary meeting.
- (d) The agenda for each Policy Board meeting shall include, where relevant, an item entitled "Issues arising from Scrutiny". The reports of the Scrutiny Board referred to a Policy Board shall be included at this point in the agenda (unless they have been considered in the context of the Policy Board's deliberations on a substantive item on the agenda).

**12. Rights of Scrutiny Board Members to documents**

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

**13. Members and Officers giving account**

- (a) The Scrutiny Board or Task and Finish Group may scrutinise and review decisions (other than quasi judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of a Policy Board, Portfolio Holder, Head of Paid Service and/or any senior officer to attend before them to explain in relation to matters within their remit:
  - (i) any particular decisions or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy;
  - (iii) their performance; and/or
  - (iv) in the case of Senior Officers, to explain any professional advice they have givenand it is the duty of those persons to attend if so required.

(Note: "Senior Officers" in relation to paragraph (a) above, means a Director, Assistant Director, Assistant Chief Executive or any other Senior Officer with his or her agreement and the agreement of his or her manager).

- (b) Where any Member or Officer is required to attend a Scrutiny Board under this provision, the Chairman of that Board will inform the Chief Executive, who shall then inform the Member or Officer in writing giving at least ten working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Board. Where the account to be given to the Board will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date and no other Member or officer is able to attend in his/her place, then the Scrutiny Board shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

#### 14. **Attendance by Others**

The Scrutiny Board may invite people, other than those people referred to in paragraph 13 above, to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend. Persons invited to attend a meeting of Scrutiny Board, under this paragraph, are not under any actual obligation to attend. It is merely an invitation.

#### 15. **Call-in**

- (a) Exceptional Nature  
Call-in should only be used in exceptional circumstances. These are where, in the opinion of the Monitoring Officer, there is evidence to suggest that a Policy Board or Area Forum took a decision which was not in accordance with the principles set out in Article 12 (Decision Making) in Part 2 of this Constitution (Call-in will not apply to quasi judicial decisions eg. development control and licensing). Attention is also drawn to the exceptions in paragraph (c) below.
- (b) Procedure  
The Call-in procedure is set out in Standing Order No. 31 of the Procedural Standing Orders in Part 4 of the Constitution.
- (c) Exceptions  
In order to ensure that Call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are that:
  - (i) decisions may only be called in once;
  - (ii) decisions may not be called in where they substantially relate to a matter which has been considered by the Scrutiny Board during the preceding six months
  - (iii) save in exceptional circumstances, the Scrutiny Board may call-in no more than five decisions every three months;
  - (iv) where decisions involve expenditure or reductions in service, only those over a value of £25,000 per annum may be called-in; and
  - (v) decisions may not be called in where they relate to individual employee issues, individual decisions on the conduct of Members and

individual decisions of the Planning and Development Board or Licensing Committee.

**16. The Party Whip**

When considering any matter in respect of which a Member of the Scrutiny Board is subject to a party whip, the Member must declare the existence of the whip and the nature of it before the commencement of the Board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

**17. Procedure at Scrutiny Board Meetings**

- (a) The Scrutiny Board and Task and Finish Groups shall consider the following business:
  - (i) minutes of the last meeting
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Board for a decision in relation to the calling-in of a decision;
  - (iv) responses from the Policy Boards to reports issued by the Scrutiny Board
  - (v) the business otherwise set out on the agenda for the meeting, including Best Value matters
- (b) Where the Scrutiny Board or Task and Finish Group conducts investigations (eg. with a view to policy development), the Board or Group may also ask other people to attend to give evidence at Board or Group meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all Members of the Board or Group be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Board or Group by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Board or Group shall prepare a report, for submission to the relevant Policy Board and/or Council as appropriate and shall make its report and findings public.

**18. Interpretation**

In these procedure rules:

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

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

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

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

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

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive and Resources Boards to implement it.

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

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

- a Each year the Executive Board will publish a programme for establishing the Budget and Policy Framework for the following year. This will include the timetable for the formulation of the Budget Strategy and the subsequent completion of all Budgets, and the completion of new, or review of existing policies.
- b Within the overall programme, Policy Boards may identify up to five studies they wish to request from the Scrutiny Board related to policy issues on which they wish to make recommendations as part of the Budget and Policy Framework. The Scrutiny Board can choose which of these to carry out. However, they may instead identify their own choice of studies, or pick a combination of both.
- c Policy studies undertaken by the Scrutiny Board should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the Executive Board, which will then draw on them in developing its proposals to Council.
- d The Policy and Budget Framework presented to Council will be available for public consultation for a period of four weeks.
- e In approving the Policy and Budgetary Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive and other Boards, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the Policy and Budgetary Framework are reserved to the Council.

### **3 Virement**

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

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

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

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

5. **Interpretation**

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

## FINANCIAL REGULATIONS AND PROCEDURES

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## FINANCIAL REGULATIONS AND PROCEDURES

### A FINANCIAL MANAGEMENT

#### 1 FINANCIAL MANAGEMENT STANDARDS

##### Why is this important?

- 1.1 All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

##### Key Controls

- 1.2 The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the Authority
  - (b) monitoring processes and procedures to review compliance with financial standards.

##### Responsibilities of the Director of Resources

- 1.3 To ensure the proper administration of the financial affairs of the Authority.
- 1.4 To set the financial management standards and to monitor compliance with them.
- 1.5 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Authority.
- 1.6 To advise on the key strategic controls necessary to secure sound financial management.
- 1.7 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- 1.8 To ensure that the revenue budget and capital programme are prepared
- 1.9 Treasury Management
- 1.10 To report to the full Council and external auditor if the Council or one of its officers: -
- Has made, or is about to make, a decision which involves incurring unlawful expenditure
  - Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
  - Is about to make an unlawful entry in the Council's account
- 1.11 To report any breach of Financial Regulations to the Resources Board,

## **Responsibilities of Senior Officers (Senior Officers are defined in this context as Assistant Directors, and Principal Officers acting under delegated authority)**

- 1.12 To promote the financial management standards set by the Director of Resources in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Director of Resources.
- 1.13 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.
- 1.14 To ensure that Financial Regulations are followed by his/ her staff.
- 1.15 To consult with the Director of Resources with respect to any matters within his/her control which are liable to materially affect the finances of the Council. This should be carried out before any provisional or other commitment is made and before any report to Board.
- 1.16 The control of staff and the security, custody and control of all other resources, including plant, buildings, vehicles, materials, cash and stores relating to his/her Division.
- 1.17 To take adequate steps to ensure that all staff, consultants or agency placements responsible for any matter covered by Financial Regulations have access to them, understand the contents and are following them.
- 1.18 To report to the Director of Resources where the Regulations have not been followed. The Director of Resources will decide whether to investigate and report to the appropriate Board depending on the circumstances in each case.

## **2 MANAGING EXPENDITURE**

### **Scheme of virement and budget transfer**

#### **Why is this important?**

- 2.1 The scheme of virement is intended to enable Boards, senior officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Executive Board, and therefore to optimise the use of resources.

#### **Key Controls**

- 2.2 Key controls for the scheme of virement are:
  - (a) It is administered by the Assistant Director (Finance and HR) within the guidelines below.
  - (b) The overall budget is agreed by Executive Board and approved by the full Council. Senior Officers and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget.
  - (c) Virement does not create additional overall budget liability. Senior Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources.

Senior Officers must plan to fund such commitments from within their own budgets.

## Ground Rules for Virement and Budget Transfer

2.3 The ground rules apply where:

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

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

(a) Virement

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

- Refuse Collection
- Public Conveniences
- Pest Control

(b) Transfer

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

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

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

(i) Virement

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

(ii) Transfer

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

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

2.7 Before a Senior Officer approves a transfer of budget provision, he/she should inform the Assistant Director (Finance and HR) in writing.

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

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

### **3 ACCOUNTING POLICIES**

#### **Why is this important?**

- 3.1 Departments have many systems and procedures relating to the control of the Authority's assets even though there are corporate systems and methods for purchasing, costing and financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

#### **Key Controls**

- 3.2 The key controls for accounting policies are:
- (a) systems of internal control are in place that ensure that financial transactions are lawful
  - (b) suitable accounting policies are selected and applied consistently
  - (c) proper accounting records are maintained
  - (d) financial statements are prepared which present fairly the financial position of the Authority and its expenditure and income

## **Responsibilities of the Director of Resources**

- 3.3 A professional responsibility to ensure that the Authority's financial systems are sound, and should therefore be notified of any new development or changes.

## **Responsibilities of the Assistant Director (Finance and HR)**

- 3.4 To select suitable accounting policies, in consultation with the Director of Resources, and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (i) deferred charges
- (j) accounting for value added tax
- (k) government grants
- (l) leasing
- (m) pensions
- (n) any other additional items as required

To arrange for the compilation of all accounts and accounting records of the Council or to ensure that they are prepared under his/ her direction.

To consult with other Senior Officers or staff where revisions are needed to systems of recording not kept within the Resources Directorate

To control the day to day financial administration of the Council by issuing detailed administrative and accounting instructions, as appropriate. These instructions have the same standing as Financial Regulations.

## **Responsibilities of Senior Officers**

- 3.5 To adhere to the accounting policies and guidelines issued

## **4 ACCOUNTING RECORDS AND RETURNS**

### **Why is this important?**

- 4.1 Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public funds. It has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

## **Key Controls**

- 4.2 All Members, finance staff and budget managers operate within the required accounting standards and timetables
- 4.3 All transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- 4.4 Procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- 4.5 Reconciliation procedures are carried out to ensure transactions are correctly recorded
- 4.6 Prime documents are retained in accordance with legislative and other requirements.

## **Responsibilities of the Assistant Director (Finance and HR)**

- 4.7 To determine the accounting procedures and records for the Authority.
- 4.8 To arrange for the compilation of all accounts and accounting records under his/ her direction.
- 4.9 To comply with the following principles when allocating accounting duties: -
  - Separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
  - Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
  - To ensure that all claims for funds including grants are made by the due date.
  - To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement for the full Council to approve the statements of accounts before 30 September.
  - To administer the Authority's arrangements for under and overspendings to be carried forward to the following year.
  - To ensure the proper retention of financial documents in accordance with the requirements set out in the Document Retention Policy.

## **Responsibilities of Senior Officers**

- 4.10 To maintain adequate records to provide a management trail leading from the source of income/ expenditure through to the accounting statements.
- 4.11 To consult with the Assistant Director (Finance and HR) before implementing any changes of systems or revised procedures or forms relating to financial matters.
- 4.12 To ensure that the following principles are observed in the allocation of accounting duties:

- (i) the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, must be separated as much as possible from the duty of collecting or using them
  - (ii) officers charged with the duty of examining and checking the accounts of cash transactions may not themselves perform any of those transactions.
- 4.13 To ensure that the principles of internal check operate in his/her Division and that accounting procedures and financial records under his/her control are kept accurately and up to date.

## 5 THE ANNUAL STATEMENT OF ACCOUNTS

### Why is this important?

- 5.1 The Authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Full Council is responsible for approving the statutory annual statement of accounts.

### Key Controls

- 5.2 The key controls for the annual statement of accounts are:
- the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the Director of Resources.
  - the Authority's statement of accounts must be prepared in accordance with proper practices, as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (the SORP)(CIPFA/LASAAC).

### Responsibilities of the Director of Resources

- 5.3 The preparation of the Authority's statement of accounts, in accordance with proper practices, as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

### Responsibilities of the Assistant Director (Finance and HR)

- 5.4 To prepare the Authority's statement of accounts, in accordance with proper practices, as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.
- 5.5 To select suitable accounting policies and to apply them consistently.
- 5.6 To make judgements and estimates that are reasonable and prudent.
- 5.7 To comply with the Statement of Recommended Practice.
- 5.8 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

- 5.9 To make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit Regulations 1996.

## **Responsibilities of Senior Officers**

- 5.10 To comply with accounting guidance provided by the Assistant Director (Finance and HR) and to supply him/her with information when required.

## **B FINANCIAL PLANNING**

## **6 BUDGETING**

### **Format of the Budget**

#### **Why is this important?**

- 6.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, and sets the level at which funds may be reallocated within budgets.

#### **Key Controls**

- 6.2 The key controls for the budget format are:
- (c) the format complies with all legal requirements
  - (c) the format complies with CIPFA's Best Value Accounting – Code of Practice
  - (c) the format reflects the accountabilities of service delivery

## **Responsibilities of the Director of Resources**

- 6.3 To decide upon the detailed form of capital and revenue estimates and agree with general directions of the Executive Board
- 6.4 To collate the estimates approved by Boards and report to the Executive Board, which will recommend the local taxation to be charged for the next year

## **Budget Preparation, Monitoring and Control**

#### **Why is this important?**

- 6.5 Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review its budget targets during the financial year. By continuously identifying and explaining variances against the budget, the Authority can identify changes in trends and resource requirements at the earliest opportunity.

#### **Key controls**

- 6.6 The key controls for managing and controlling the revenue budget are:
- (a) budget managers are responsible only for income and expenditure that they can influence
  - (b) there is a nominated budget manager for each cost centre

- (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) budget managers follow an approved certification process for all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and any necessary action is taken to align service outputs and budget
- (g) amounts provided under the annual revenue estimates are not vired to other purposes without the approval of Resources Board. See Fin Reg.2.3 for the ground rules for virement and budget transfer.

6.7 The inclusion of items in approved revenue estimates or capital programmes gives the right to incur such expenditure unless the Executive Board of the Council has placed a reservation on any such item. Expenditure on any such reserved item may only be incurred when that reservation has been removed.

6.8 Nothing in these Regulations will prevent the Chief Executive from incurring necessary expenditure through exercise of his emergency powers under Section 101(1)(a) of the Local Government and Finance Act 1972.

### **Responsibilities of the Assistant Director (Finance and HR)**

6.9 To prepare estimates of income and expenditure on General Fund revenue accounts and the Housing Revenue Account in conjunction with Senior Officers. These should agree with the financial plans approved by the Council, taking into account all financial implications, including any impact upon Prudential Indicators set by the Council.

6.10 To establish an appropriate framework of budgetary management and control that ensures that: -

- each Senior Officer has available timely information on income and expenditure on each of their budget heads which is sufficiently detailed to enable them to fulfil their budgetary responsibilities
- Expenditure is only committed against an approved budget head
- All officers responsible for committing expenditure comply with the relevant guidance and the financial regulations
- Variances from approved budgets are investigated
- Periodic Budgetary Monitoring reports are provided to all Boards
- Consolidated Budgetary Monitoring reports are provided to Resources Board
- Housing Revenue Account Budgetary Monitoring reports are provided to Resources Board
- Periodic monitoring reports of capital expenditure are provided to Resources Board
- Before the beginning of each financial year all budget holders are provided with financial statements showing details of the budgets for which they are responsible

- Budget holders receive or have direct access to accurate, timely and appropriate financial information to allow them to carry out effective control

## **Responsibilities of Senior Officers**

### **Estimates**

- 6.11 To prepare estimates of income and expenditure on General Fund Revenue accounts, in consultation with the Assistant Director (Finance and HR) for submission to the appropriate Board. The estimates should agree with the financial plan(s) approved by the Council.
- To take into account all financial implications, including any impact upon Prudential Indicators set by the Council, so that each individual Board may report on its budget requirement
  - To submit revenue estimates for the Housing Revenue Account to the Resources Board
  - To ensure that for any proposal to Board which involves additional expenditure during a period for which Council has already approved a budget or a programme of capital expenditure, a report is submitted to Board indicating the sufficiency or otherwise of the existing financial provision in the budget or capital programme
  - To manage their divisions' budgets in accordance with these Regulations, either directly or by delegating to members of their staff, as appropriate
  - To be accountable for all the financial operations of the services under their control
  - To monitor expenditure and income against budgets for which they have responsibility
  - To vire or transfer monies, if necessary, under the rules drawn up by the Director of Resources, shown in this document, and approved by Resources Board
  - To inform the Board concerned, after consultation with the Director of Resources/Assistant Director (Finance and HR), if it appears that the expenditure of any head of estimate may be exceeded (after allowing for any virement or transfer)
  - To inform the Board concerned, after consultation with the Director of Resources/Assistant Director (Finance and HR), if it appears that the income of any head of estimate may not be reached (after allowing for any virement or transfer)
  - Not to charge any expenditure or income to another budget controlled by another budget holder without that Officer's prior agreement

### **Monitoring – Budgetary Control**

- 6.12 To maintain budgetary control within their departments according to the principles agreed and to ensure that all income and expenditure is properly recorded and accounted for.

- 6.13 To ensure that an accountable budget manager is identified, as appropriate, for income and expenditure under their control.
- 6.14 To ensure that budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where variations from the approved budget are forecast.
- 6.15 To ensure that a monitoring process is in place to review performance levels/ levels of service in conjunction with the budget and is operating effectively.
- 6.16 To ensure compliance with the scheme of virement.
- 6.17 To ensure that no expenditure or income is charged to a budget controlled by another budget holders without that Officer's prior agreement.
- 6.18 To ensure that, where it appears that the amount of any approved estimate head may be exceeded, or the amount of any head of approved income may not be reached (after allowing for any virement or transfer made in accordance with FR 2.4 to 2.13), that the Assistant Director (Finance and HR) is consulted and the relevant Board informed.

### **Board Responsibilities**

- 6.19 Amounts provided under the various heads of the approved annual revenue estimates will not be vired to other purposes by a Board without the approval of the Resources Board, except that approval is not required below £6,000, provided that virement is consistent with approved policy and budgeting decisions and exclude any proposal which would mean additional expenditure in later years.
- 6.20 Any Board of the Council must, before incurring any expenditure which cannot be met from within an approved estimate (after allowing for any virement or transfer made in accordance with Financial Regulations) submit to Executive Board a supplementary estimate request with a detailed statement of the proposed expenditure. This requirement also applies to an expected reduction in income.
- 6.21 Where a Board proposes:
  - a new policy
  - a variation of an existing policy
  - a variation in the means or time-scale of implementing an existing policy which affects or may affect the Council's finances

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

## 7 CAPITAL PROGRAMME

### Why is this important?

- 7.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Authority, such as land, buildings and major items of plant, equipment and vehicles. Capital assets shape the way services are delivered in the long-term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 7.2 The Government places strict controls on the financing capacity of the Authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

### Key Controls

- 7.3 The key controls for a capital programme are: -
- Specific approval by the Executive Board for the capital programme expenditure
  - A scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared.
  - The development and implementation of an asset management plan
  - Accountability for each proposal is accepted by a named manager
  - Monitoring of progress in conjunction with expenditure and income and comparison with approved budget

### Responsibilities of the Director of Resources

- 7.4 To prepare capital estimates jointly with the other Assistant Directors and to report them to Executive Board for approval.
- 7.5 To prepare and submit reports to the Resources Board on the projected income, expenditure and resources compared with the approved estimates.
- 7.6 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques.
- 7.7 To determine the definition of 'capital', having regard to government regulations and accounting requirements.

### Responsibilities of Senior Officers

- 7.8 To comply with guidance concerning capital schemes and controls issued by the Director of Resources.
- 7.9 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued.
- 7.10 To ensure that adequate records are maintained for all capital contracts.
- 7.11 To proceed with projects only when there is adequate provision in the capital programme that has been approved by the Executive Board.

- 7.12 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Director of Resources and, if applicable, approval of the scheme through the capital programme.
- To ensure that, before a Board recommends to the Executive Board any scheme involving capital expenditure, the following procedure has been followed:
  - To consult with the Director of Resources/ Assistant Director (Finance and HR)
  - An estimate has been provided which includes the associated likely revenue expenditure and income, for approval by the appropriate Board. The estimate should be prepared on the standard form and include the following:
    - (a) Outcomes expected
    - (b) Options for delivery
    - (c) Estimate of the cost of the proposed work
    - (d) Estimated annual running costs
    - (e) Work (if any) to be replaced
    - (f) Method of financing recommended
    - (g) Any income produced by the scheme
    - (h) Any external funding
    - (i) Chosen options and reasons
    - (j) Benefits
    - (k) Link to priorities
    - (l) Lifetime costs

## 8 MAINTENANCE OF RESERVES

### Why is this important?

- 8.1 The Authority must decide the level of general reserves it wants to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the Authority to provide for unexpected events and so protect it from overspending, should such an event occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### Key Controls

- 8.2 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting* in the United Kingdom: *A Statement of Recommended Practice (CIPFA/LASAAC)* and agreed accounting policies.
- 8.3 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 8.4 Authorisation and expenditure from reserves by the appropriate Senior Officer in conjunction with the Director of Resources or Assistant Director (Finance and HR).

### Responsibilities of the Director of Resources

- 8.5 To advise Executive Board and / or the full Council on prudent levels of reserves for the Authority, and to take account of the advice of the external auditor in this matter.

## **Responsibilities of Senior Officers**

- 8.6 To ensure that resources are used only for the purposes for which they were intended.

## **C RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **9 RISK MANAGEMENT**

#### **Why is this important?**

- 9.1 The Authority, in all its undertakings, faces risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve our objectives, caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure our assets and to ensure our continued financial and organisational well-being. It is, therefore, an integral part of good business practice. It is concerned with the measures we have in place to manage identified risks and then recommending the action we need to take to control those risks effectively.
- 9.2 It is the responsibility of Resources Board to approve the Risk Management Strategy, and to promote a culture of risk management throughout the Authority.

#### **Key Controls:**

- 9.3 Key controls for Risk Management and Control of Resources are:
- (a) Procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating efficiently throughout the Authority.
  - (b) A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
  - (c) Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives.
  - (d) Provision is made for losses that might result from the risks that remain.
  - (e) Procedures are in place to investigate claims within required timescales.
  - (f) Acceptable levels of risk are determined and insured against, where appropriate.
  - (g) The Authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

#### **Responsibility of the Director of Resources**

- To prepare and promote the Authority's risk management policy statement
- To develop risk management controls in conjunction with other senior officers

#### **Responsibility of the Assistant Director (Finance and HR)**

- To arrange all insurance cover and negotiate all claims in consultation with other Officers, where necessary

- To review all insurances annually, or at such other period as is necessary and in consultation with the Director of Resources and other Senior Officers, as appropriate
- To arrange for suitable fidelity guarantee and professional indemnity insurance for all appropriate employees of the Council

### **Responsibility of Senior Officers**

- Senior Officers will take responsibility for risk management, having regard to advice from the Director of Resources, or his representative, and other specialist officers
- Senior Officers will ensure that there are regular reviews of risk within their departments and are responsible for maintaining risk registers in the agreed corporate form.
- All Senior Officers will complete an annual declaration of prioritised risks within their divisions, together with details of controls in place and action taken and any proposed measures to reduce the risk in the following year. Any new risks facing the service and details of any Partnerships in which it is involved must also be reported in the annual declaration
- Senior Officers will promptly inform the Assistant Director (Finance and HR) of all new risks, properties or vehicles which need to be insured and of any alterations affecting existing insurances.
- Senior Officers will straightaway inform the Assistant Director (Finance and HR) in writing of any loss, liability or damage or anything likely to lead to an insurance claim and supply any necessary supporting records as may be needed.
- Senior Officers will consult the Director of Resources or Chief Executive or Director of Housing and Environment relating to the terms of any indemnity which the Council is requested to give.
- Senior Officers must ensure that employees, Members or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **10 INTERNAL CONTROL**

### **Why is this important?**

- 10.1 The Authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives. It has statutory obligations, and so needs internal controls to identify and monitor compliance with these obligations.
- 10.2 It faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage those risks.
- 10.3 The system of internal controls is established in order to provide the measurable achievement of:

- (a) Efficient and effective operations
- (b) Reliable financial information and reporting
- (c) Compliance with laws and regulations
- (d) Risk management

### **Key Controls**

10.4 The key controls and control objectives for internal control systems are: -

- (a) Key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively.
- (b) Managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.
- (c) Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- (d) An effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guidelines *Guidance for Internal Auditors*, CIPFA's *Code of Practice for Internal Audit in Local Government in the UK* and with any other statutory obligations and regulations.

### **Responsibilities of the Director of Resources**

10.5 To assist the Authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of Senior Officers**

- 10.6 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risk.
- 10.7 To review existing controls in the light of changes affecting the Authority and to establish and implement new controls in line with guidance from the Director of Resources.
- 10.8 To ensure staff have a clear understanding of the consequences of lack of control.

## 11 AUDIT REQUIREMENTS

### Internal Audit

#### Why is this Important?

- 11.1 The requirement for an internal audit function is implied by section 151 of the Local Government Act 1972, which requires that Authorities make arrangements for the proper administration of their financial affairs. The Accounts and Audit Regulations 1996 (SI 1996/590) regulation 5, more specifically require that “a relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems.”
- 11.2 Internal Audit is an independent and objective appraisal function established by the Authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper economic, efficient and effective use of resources.

#### Key Controls

- That it is independent in its planning and operation
- The Audit Manager has direct access to the head of paid service, all levels of management and directly to elected Members
- The Internal Auditors comply with the Auditing Practices Board's guideline *Guidance for Internal Auditors* as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the UK*

#### Responsibilities of the Director of Resources

- 11.3 To ensure that Internal Auditors have the authority to:
- (a) Enter at all times any property of the Council.
  - (b) Have access to all records, documents, minutes and correspondence relating to any financial and other related dealings of the Council which are within the Council's safekeeping or control, including any partnerships in which the Council is involved.
  - (c) Ask for and receive such explanations as are necessary concerning any matter under examination.
  - (d) Require any employee of the Council to produce cash, receipts, books, vouchers, stores, accounting records, plant or any other Council property under his/her control.
  - (e) Access records belonging to third parties, such as contractors, when required.
  - (f) Directly access the head of paid service, all levels of management and elected Members.
  - (g) Review, assess and report to the Senior Officer of the Division being audited on the suitability and use of financial and other controls and the protection of the Council's property and assets against loss due to fraud and wasteful practices, poor value for money or other causes.
  - (h) To ensure that there is effective liaison between external and internal audit.

## 11.4 Responsibilities of Senior Officers

- (a) To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purpose of their work.
- (b) To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- (c) To consider and respond promptly to recommendations in audit reports.
- (d) To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.

## External Audit

### Why is this important?

- 11.5 The Local Government Finance Act 1982 set up by the Audit Commission, which is responsible for appointing external auditors to each Local Authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 11.6 The basic duties of the external audit are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon: -
- The financial aspects of the audited body's corporate governance arrangements
  - The audited body's financial statements
  - Aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP
- 11.7 The Authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Authority and its income and expenditure for the year in question and complies with legal requirements.

### Key Controls

- 11.8 External auditors are appointed by the Audit Commission normally for a period of five years. The Audit Commission prepares a code of practice, which external auditors follow when carrying out their duties.

### Responsibilities of the Director of Resources

- 11.9 To ensure that external and internal auditors are given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.
- 11.10 To ensure that there is effective liaison between external and internal audit.
- 11.11 To work with the external auditor and advise the full Council, Boards and Senior Officers of their responsibilities in relation to external audit.

### **Responsibilities of Senior Officers**

- 11.12 To ensure that external and internal auditors are given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.
- 11.13 To ensure that all records and systems are up to date and available for inspection.

## **12 PREVENTING FRAUD AND CORRUPTION**

### **Why is this important?**

- 12.1 The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority. The expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practice.
- 12.2 The Authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud and corruption.

### **Key Controls**

- 12.3 The key controls regarding the prevention of fraud and corruption are that:
- (a) The Authority has an effective fraud and corruption policy and maintains a culture that will not tolerate fraud and corruption.
  - (b) All Members and staff act with integrity and lead by example.
  - (c) Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt.
  - (d) High standards of conduct are promoted amongst Members by the Standards Board.
  - (e) A register of interests should be maintained in which any hospitality or gifts accepted must be recorded.
  - (f) Whistle blowing procedures must be in place and operate effectively.
  - (g) Legislation regarding the Public Interest Disclosure Act 1998 must be adhered to.

### **Responsibility of the Director of Resources**

- 12.4 To develop and maintain an anti fraud and anti-corruption policy.
- 12.5 To maintain adequate and effective internal control arrangements.

### **Responsibilities of Senior Officers**

- 12.6 To ensure that all suspected irregularities are reported to the Audit Manager.

- 12.7 To instigate the Authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 12.8 To ensure that where financial impropriety is discovered, the Director of Resources is informed.

## 13 ASSETS

### Security

#### Why is this important?

- 13.1 The Authority holds assets in the form of property, vehicles, equipment and furniture worth millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a pre-requisite for proper fixed asset accounting and sound asset management.

#### Key Controls

- 13.2 The key controls for the security of resources such as land, buildings, equipment, software and information are:
- (a) Resources are used only for the purpose of the Authority and are properly accounted for.
  - (b) Resources are available for use when required.
  - (c) Resources no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits.
  - (d) An asset register is maintained for the Authority, assets are recorded when they are acquired by the Authority and this record is updated as changes occur with respect to the location and condition of the asset.
  - (e) All staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation.
  - (f) All staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer and internet security policies.

#### Responsibility of the Assistant Director (Finance and HR)

- 13.3 To ensure that an asset register is maintained in accordance with the following deminimis levels:
- 13.4 Equipment £5,000, Land and Buildings £10,000. The function of the asset register is to provide the Authority with information about fixed assets so that they are safeguarded, used efficiently and effectively and adequately maintained.
- 13.5 To decide on the frequency of the revaluation of assets in conjunction with the Solicitor to the Council and in accordance with the Accounting Code of Practice.
- 13.6 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

### **Responsibilities of the Solicitor to the Council**

- 13.7 To have custody of all title deeds, agreements, contracts, leases, easements and any other documents and items under his control, and be responsible for their security and safe-keeping.
- 13.8 To provide details to the Asset Registrar of all lease agreements entered into or cancelled.

### **Responsibilities of the Corporate Property Officer**

- 13.9 To keep a record of all properties owned by the Council, identifying the purpose for which held, location, extent and plan reference, together with details of purchase, nature of interests, rents payable and details of tenancies granted.
- 13.10 To decide on the frequency of the revaluation of assets in conjunction with the Assistant Director (Finance and HR) and in accordance with the Accounting Code of Practice.

### **13.11 Responsibilities of Senior Officers**

- (a) To notify all acquisitions and disposals of properties (land and buildings) to the Asset Registrar within a month of acquisition or disposal.
- (b) Where land and buildings are surplus to requirements, to report the recommendation for sale to Board.
- (c) To ensure the proper security of all buildings and other assets under their control.
- (d) To consult with the Assistant Director (Finance and HR) in any case where security is thought to be inadequate or where it is considered that special security arrangements may be needed or where arrangements agreed with the Council's insurers may be affected.
- (e) To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement has been established as appropriate.
- (f) To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Authority.
- (g) To ensure that any limits for cash holdings are agreed with the Director of Resources and are not to be exceeded without his/her express permission.
- (h) To ensure that proper security and privacy is maintained with regard to information held on personal computers, and in written form, and for security of other such confidential information held in that Division and for informing the Director of Resources of any new applications so they can be assessed for notification under the Data Protection Act 1998.
- (i) To ensure that any Officers holding keys to safes, similar containers, buildings and vehicles are responsible at all times for their safekeeping. The loss of any safe keys must be reported to the Assistant Director (Finance and HR) straightaway. A record should be maintained by each Senior Officer of all such keys under his/her control, showing the name of the holder, the date of issue

and the receiving Officer's signature. The loss of any other keys should be reported to the appropriate Senior Officer, who will take the necessary action.

- (j) To ensure that the appropriate staff are aware of the following procedures:
  - i Key-holders should notify the Senior Officer of transfers of keys straightaway. Transfers of keys should be evidenced by the timed and dated signature of the receiving officer.
  - ii Combination lock holders are responsible for keeping such combinations, which should be changed periodically and on the termination of service of any such combination holder, or change of responsibility.

13.13 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

13.14 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way. All employees should comply with the instructions and guidance issued by Information Services.

### **Responsibility of the Assistant Director (Information and Procurement)**

13.15 To ensure the security of all computers and computer software, and to control the access to all records, in compliance with the requirements of the Data Protection Act 1998.

## **14 INVENTORIES**

### **Responsibilities of Senior Officers**

14.1 To maintain an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly. A copy of each inventory should be made available to the Assistant Director (Finance and HR) annually for insurance/audit purposes.

14.2 To ensure that no Authority asset is subject to personal use by an employee without proper authority.

14.3 To ensure that the Council's property is not removed except in the ordinary course of the Council's business or used otherwise than for the Council's purpose unless specific directions are issued by the Senior Officer concerned.

14.4 To ensure that all property, machinery, plant and other items are to be included on inventories straightaway when received, and should, as far as possible, be marked in a suitable way as the property of the Council. Valuable and portable items, such as computers, cameras and video recorders should be identified with security markings as belonging to the Authority.

## **15 STOCKS AND STORES**

### **Responsibilities of Senior Officers**

15.1 To ensure the safekeeping of the stocks and stores of his/her Division.

- 15.2 To ensure that stocks are maintained at reasonable levels and are subject to at least an annual and independent (as far as practicable) physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion. Any differences revealed on items of stock when a comparison is made between physical and book-stock must be reported to Internal Audit.
- 15.3 To ensure that no articles or goods may be removed from any store or depot without an order signed by an authorised Officer.
- 15.4 To ensure that records of stores issued and goods received are in a suitable form to be agreed by the Director of Resources.
- 15.5 To supply to the Assistant Director (Finance and HR) any information as he/she requires in relation to stores for the accountancy, costing and financial records of the Council.

## 16 **INTELLECTUAL PROPERTY**

### **Why is this important?**

- 16.1 Intellectual property is a generic term that includes inventions, writing and software development. If these are created by the employee during the course of employment, then they belong to the Authority.

### **Responsibility of Senior Officers**

- 16.2 To ensure that controls are in place so that staff do not carry out private work in Council time and that staff are aware of the Council's rights with regard to intellectual property.

## 17 **ASSET DISPOSAL**

### **Why is this important?**

- 17.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources, or those declared surplus to requirements under Contract Standing Orders and Property Procedures, should be disposed of in accordance with the law and the Authority's regulations.

### **Key Controls**

- 17.2 That procedures protect staff involved in the disposal from accusations for personal gain.
- 17.3 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors such as environmental issues and in accordance with Contract Standing Orders and the Property Procedures.

### **Responsibility of the Assistant Director (Finance and HR)**

- 17.4 To ensure that appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

## **Responsibilities of Senior Officers**

- 17.5 To ensure that all surplus or obsolete materials, stores or equipment are disposed of by competitive tender or quotation when the value for such surplus stock is estimated to be higher than £500 and in accordance with Contract Standing Orders.
- 17.6 To ensure that any disposal of surplus or obsolete materials and stores, or equipment recorded on inventories, below the value of £500, are notified to the Assistant Director (Finance and HR) in writing.
- 17.7 To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- 17.8 To ensure that income received for the disposal of an asset is properly banked and coded.

## **18 TREASURY MANAGEMENT**

### **Why is this important?**

- 18.1 Millions of pounds pass through the Authority's books each year. This led to the establishment of codes of practice. These aim to provide assurance that the Authority's money is properly managed in a way that balances risk with return, but with the over-riding consideration being given to the security of the Authority's capital sum.

### **Key Controls**

- 18.2 That the Authority's borrowings and investments comply with the CIPFA *Code of Practice of Treasury Management* and the Authority's treasury management policy statement and strategy.

### **Responsibilities of the Director of Resources**

- (a) To create and maintain a Treasury Management Policy and Strategy, stating the policies and objectives of its treasury management activities.
- (b) To arrange the borrowing and investments of the Authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the Authority's Treasury Management policy statement and strategy.
- (c) To maintain suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities. The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key recommendations.
- (d) To report to Resources Board not less than twice in each financial year on the activities of the treasury management operation and on the exercise of treasury management powers given to him/her. One such report will be an Annual Report which must be presented to the Board by 30 September.

- (e) To maintain a register of stock, bonds and mortgages and keep records of all borrowing of money by the Authority.
  - (f) To make arrangements for the safe keeping of all securities which are the property of or in the name of the Council or its nominees.
  - (g) To ensure that all investments of money are in the name of the Authority.
  - (h) To ensure that all borrowings are in the name of the Authority.
  - (i) To operate bank accounts as are considered necessary.
  - (j) To prepare Prudential Indicators for Treasury Management, which will be considered together with the strategy and the annual report on activities.
- 18.3 All executive decisions on borrowing, investment or finance are given to the Director of Resources or through him/her to his/ her staff, who are all required to act in accordance with CIPFA's *Treasury Management in the Public Sector :Code of Practice 2001*.
- 18.4 All money in the hands of the Council will be aggregated for the purpose of treasury management and will be under the control of the appropriate officer for the purposes of Section 151 of the Local Government Act 1972, referred to in the Code as the Chief Financial Officer, who in this Authority is the Director of Resources.

## 19 **BANKING ARRANGEMENTS AND CHEQUES**

### **Why is this important?**

#### **Key Controls**

- 19.1 All arrangements with the Council's bankers concerning the Council's bank accounts and the issue of cheques will be made through the Director of Resources.
- 19.2 Cheques will be signed by the Director of Resources or his/her authorised officers, as may be approved by the Resources Board.
- 19.3 Instructions to the Council's bankers to make bank transfers will only be signed by the Director of Resources or his/her authorised officers, as may be approved by the Resources Board.
- 19.4 Money transferred by use of a computer link may only be released by the Director of Resources, or his/her authorised officers, as may be approved by the Resources Board.
- 19.5 Computer-printed cheques in excess of £20,000 will bear the personal signature of the Director of Resources or other such Officer authorised to sign cheques by the Council. All hand-written cheques will be personally signed by the Director of Resources or his/her authorised representative.

#### **Responsibilities of the Assistant Director (Finance and HR)**

- 19.6 To open and operate such banking accounts as necessary. Such accounts must be in the name of North Warwickshire Borough Council.
- 19.7 To arrange for the provision of cheques and arrange for their safekeeping.
- 19.8 To make arrangements for suitable signatories to the Council's bank accounts.

### **Responsibilities of the Assistant Director (Revenues and Benefits)**

- 19.9 To open and operate such banking accounts as necessary after consultation with the Assistant Director (Finance and HR). Such accounts must be in the name of North Warwickshire Borough Council.

## **20 CASH FLOATS AND PETTY CASH**

### **Responsibilities of the Assistant Director (Finance and HR)**

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

### **Responsibilities of Senior Officers**

- 20.2 To request any new floats or increases to existing floats, together with valid reasons for the increase, to the Assistant Director (Finance and HR).
- 20.3 To review and approve the arrangements made for the safekeeping of the float.
- 20.4 To ensure that where staff are leaving the employ of the Authority or otherwise ceasing to hold a float, the float is properly handed in and accounted for.

### **Responsibilities of Staff**

- 20.5 An Officer responsible for a cash float will give the Assistant Director (Finance and HR) a certificate stating the balance of his/her cash advance at the 31 March each year, and at any other time the Assistant Director (Finance and HR) or the Director of Resources requires.
- 20.6 To record all transactions as they occur. Vouchers and cash balances must be available for checking at any time by the Director of Resources (or his/her representative).
- 20.7 To ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.
- 20.8 To make arrangements for keeping the cash balances and vouchers in a safe place.
- 20.9 To ensure that any income received on behalf of the Council is not paid into a cash float but is banked or paid to the Authority.
- 20.10 To limit purchases through petty cash to minor items of expenditure and to such other items as the Assistant Director (Finance and HR) may approve. Any purchase must be supported by a receipted voucher. Where appropriate, Value Added Tax vouchers must accompany any taxable payment made.

## **21 STAFFING**

### **Why is this important?**

- 21.1 In order to provide the highest level of service, it is crucial that the Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

## **Key Controls**

- 21.2 The key controls for staffing are:
- 21.3 An appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched.
- 21.4 Procedures are in place for forecasting staffing requirements and cost.
- 21.5 Controls are implemented that ensure that staff time is used efficiently and to the benefit of the Authority.
- 21.6 Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

## **Responsibility of the Director of Resources**

- 21.7 To ensure that budget provision exists for all new and existing employees.

## **Responsibilities of the Assistant Director (Finance and HR)**

- 21.8 To make payment of all salaries, gratuities, compensation and other items to all employees or former employees or under arrangements approved and controlled by him/her.

## **Responsibilities of Senior Officers**

- 21.9 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary costs.
- 21.10 To ensure that both HR and Payroll are notified promptly of any new staff or any leavers.
- 21.11 To notify Payroll in an agreed form and time of all staff absence from work for sickness.
- 21.12 To provide a list of officers who are authorised to sign timesheets, invoices, orders, etc on behalf of the Senior Officer. This should be on the prescribed form and include specimen signatures, together with any specified limits.
- 21.13 To ensure that all timesheets or other pay documents are certified by hand and returned to Payroll for processing.

## **D FINANCIAL SYSTEMS AND PROCEDURES**

### **22 GENERAL**

#### **Why is this important?**

- 22.1 Departments have many systems and procedures relating to the control of the Authority's assets. They are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

22.2 The Director of Resources has a professional responsibility to ensure that the Authority's financial systems are sound and should therefore be notified of any new developments or changes.

### **Key Controls**

22.3 The key controls for systems and procedures are:

- Basic data exists to enable the Authority's objectives, targets, budgets and plans to be formulated.
- Performance is communicated to the appropriate managers on an accurate, complete and timely basis.
- Early warning is provided of deviation from target, plans and budgets that require management attention.
- Operating systems and procedures are secure.

### **Responsibilities of the Director of Resources**

22.4 To make arrangements for the proper administration of the Authority's financial affairs including to:

22.5 Issue advice, guidance and procedures for officers and others acting on the Authority's behalf.

22.6 Establish arrangements for audit of the Authority's financial affairs.

22.7 Approve any new financial systems to be introduced.

22.8 Approve any changes to existing financial systems.

### **Responsibilities of the Assistant Director (Finance and HR)**

22.9 To determine the accounting system, form of accounts and supporting financial records in consultation with the Director of Resources and follow recommended published standards and codes of practice.

22.10 To arrange for the accounts and accounting records to be produced.

22.11 To consult with other Senior Officers before revising any procedures.

22.12 To establish a scheme of delegation identifying officers authorised to act on Senior Officers' behalf with regard to financial matters.

22.13 To control the day to day financial administration of the Council by issuing detailed administrative and accounting instructions, as appropriate. These instructions will have the same standing as Financial Regulations.

### **Responsibilities of Senior Officers**

22.14 To obtain agreement of the Assistant Director (Finance and HR) before introducing any revised system, books or forms relating to finances.

22.15 To ensure that the principles of internal check operate within his/her Division and that accounting procedures and financial records under his/her control are kept accurately and up to date.

- 22.16 To ensure that the following principles are observed in the allocation of accounting duties:
- 22.17 The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, are separated as much as possible from the duty of collecting or using them.
- 22.18 To ensure that relevant standards and guidelines for computer systems are observed.
- 22.19 To comply with the copyright, designs and patent legislation and, in particular, to ensure that:
- Only software legally acquired and installed by the Authority is used on its computers
  - Staff are aware of legislative provisions
  - In developing systems, due regard is given to the issue of intellectual property rights
- 22.20 Officers charged with the duty of examining and checking the accounts of cash transactions may not themselves perform any of those transactions.
- 22.21 Each Senior Officer must ensure that the principles of internal check operate in his/her Division.

### **Responsibility of the Assistant Director (Information Services and Procurement)**

- 22.22 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site.
- 22.23 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

## **23 INCOME**

### **Why is this important?**

- 23.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services, as this improves the Authority's cash flow and also avoids the time and cost of administering debt. However, this may not always be possible.

### **Key Controls**

- 23.2 The key controls for income are:
- (a) All income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed.
  - (b) All income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery.
  - (c) All money received by an employee on behalf of the Authority is paid without delay to the Assistant Director (Revenues and Benefits) straightaway, or as

he/she directs to the Authority's bank or National Giro account, and properly recorded. The responsibility for collection should be separated from that:

- For identifying the amount due
  - For reconciling the amount due to the amount received
- (d) Effective action is taken to pursue non-payment within defined timescales.
- (e) Formal approval for debt write-off is obtained.
- (f) Appropriate write-off action is taken within defined timescales.
- (g) Appropriate accounting adjustments are made following write off action.
- (h) All appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule.
- (i) Money collected and deposited is reconciled to the bank accounts by a person who is not involved in the collection or banking process.

### **Responsibilities of the Director of Resources**

- 23.3 To control the collection of all money due to the Council.
- 23.4 The Director of Resources has the right to inspect any documents or other evidence in connection with contracts, leases, agreements and other arrangements entered into, which involve the receipt of money by the Council.

### **Responsibilities of the Assistant Director (Revenues and Benefits)**

- 23.5 All monies received on behalf of the Council in any Division must be paid to the Assistant Director (Revenues and Benefits) straightaway or, as he/she may direct, to the Council's bank account. No deduction may be made from such monies unless the Assistant Director (Revenues and Benefits/Finance and HR) specifically agrees to it.
- 23.6 To make arrangements for the payment of Council Tax and Non-Domestic Rates.
- 23.7 To write-off, under delegated powers, uncollectible amounts of Council Tax and NDR of £1,250 or less and to report such write-offs to Board from time to time. Sums due to the Council in excess of £1,250 may not be written off except with the consent of the Council on the recommendation of the appropriate Board or by the Board acting under delegated powers.
- 23.8 To hold securely receipts, tickets and other records of income for the appropriate period.

### **Responsibilities of the Assistant Director (Finance and HR)**

- 23.9 To ensure that there are proper arrangements for the control of all receipt forms, books, tickets and other such items including ordering and supplying them.
- 23.10 To make arrangements for the collection of monies due for sundry invoices.
- 23.11 To write off, under delegated powers, uncollectable amounts of sundry debt of £1,250 or less and to report such write-offs to Board from time to time. Sums due to the Council in excess of £1,2500 may not be written off except with the consent of

the Council on the recommendation of the appropriate Board or by the Board acting under delegated powers.

- 23.12 To hold securely receipts, tickets and other records of income for the appropriate period.

### **Responsibilities of Senior Officers**

- 23.13 To ensure that each Officer who banks money does so in accordance with the instructions of the Assistant Director (Finance and HR).
- 23.14 To ensure that staff are aware that personal cheques must not be cashed out of monies held on behalf of the Council.
- 23.15 To ensure that any transfer of official money from one member of staff to another is noted in the records of the Division concerned by the timed and dated signature of the receiving officer.
- 23.16 To give the Assistant Director (Finance and HR) details of work done, goods supplied or services provided and of all other amounts due as may be required by him/her to record correctly any money due to the Council and to make sure that accounts are issued promptly for the collection of the income due.
- 23.17 To ensure that no new charges or changes in existing charges are made unless reported to the appropriate Board unless the Board has given authority to a Council Officer.
- 23.18 To ensure that each Board reviews, at least once in each year, as part of the budget process, whether the fees and charges for facilities and services under its control should be amended in any way.
- 23.19 To notify the Assistant Director (Finance and HR) promptly of all monies due to the Council and of contracts, leases and other agreements and other arrangements entered into which involve the receipt of money by the Council.
- 23.20 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 23.21 To notify the Assistant Director (Finance and HR) of any outstanding income relating to the previous year as soon as possible after 31 March and in line with the timetable issued.

### **General**

- 23.22 All cheques will be crossed specifically to the account of the Council when received.
- 23.23 To ensure that personal cheques are not cashed out of monies held on behalf of the Council.
- 23.24 Post-dated cheques will not be accepted in payment of debt, except by special arrangement with the Director of Resources.
- 23.25 All accounts for income due to the Council will be produced through the Assistant Director (Finance and HR) unless otherwise authorised, except accounts for local taxation, rents and mortgages which will be produced through the Assistant Director (Revenues and Benefits) and the Assistant Director (Housing). Accounts must be in the name of North Warwickshire Borough Council.

## 24 ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

### Why is this important?

- 24.1 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. We have a statutory duty to achieve best value in part through economy and efficiency. Our procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with contract standing orders and the Procurement Policy and Strategy.

### Key Controls

- 24.2 The key controls for ordering and paying for work, goods and services are:
- (a) All goods and services are ordered only by appropriate persons and are correctly recorded.
  - (b) All goods and services shall be ordered in accordance with Contract standing orders.
  - (c) Goods and services received are checked to ensure they are in accordance with the order. Wherever possible, goods should not be received by the person who placed the order.
  - (d) Payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
  - (e) All appropriate evidence of the transaction and payment documentation are retained and stored for the defined period, in accordance with the document retention policy.
  - (f) All expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected.
  - (g) In addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

### Responsibilities of the Assistant Director (Finance and HR)

- 24.3 To ensure that all the Authority's financial systems and procedures are sound and properly administered.
- 24.4 To make payments from the Authority's bank accounts on the Director of Resources's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 24.5 To approve any changes to the existing financial system and to approve any new system before it is introduced.
- 24.6 To make payments to contractors on the certification of the appropriate senior officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 24.7 To approve the form of official orders.

- 24.8 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a Court Order.
- 24.9 To provide advice and encouragement on making payment by the most economical means.
- 24.10 To ensure that a budgetary control system is established that enables commitments incurred by placing orders against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

### **Responsibilities of Senior Officers**

- 24.11 Each Senior Officer is responsible for all orders issued from his/her Division, and must keep a list of all persons he/she has authorised to sign orders on his/her behalf, including any consultants or agency placements who have also been given appropriate authorisation. Orders will be raised electronically through the Council's Financial Management System. Any change in authorised officers must be notified straightaway to the Assistant Director (Finance and HR).
- 24.12 To ensure that each order for the supply of goods complies with the Council's approved Purchasing Strategy document.
- 24.13 To ensure that the cost of official orders is within the overall approved estimates, represents value for money and that Contract Standing Orders have been complied with. Where expenditure is incurred in an emergency, the relevant Senior Officer is responsible for obtaining any subsequent authorisation that may be required.
- 24.14 To ensure that official orders clearly show the nature and quantity of the materials, works or services required, and details of the agreed price (or estimated price), discounts and terms in relation to packing and delivery.
- 24.15 To ensure that best value is obtained from purchases by obtaining competitive prices for goods and services of the appropriate quality.
- 24.16 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, wherever possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories.
- 24.17 To ensure that before authorising an invoice, the following processes have been carried out:-
- The work, goods or services to which the account relates have been received, carried out, examined and approved;
  - The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - The relevant expenditure has been properly incurred, and is within the relevant estimate provision;
  - The account has not been previously passed for payment and is a proper liability of the Council;
  - Prepayments for goods and services may only be allowed in exceptional circumstances where a significant benefit may be obtained. This should be noted on the invoice/ cheque requisition.

- 24.18 To ensure that two members of staff are involved in the ordering, receiving and invoice authorisation process. If possible a different officer from the person checking a written invoice should authorise the invoice.
- 24.19 To ensure that any amendments to the names of officers authorised to sign off orders and invoices is notified to the Assistant Director (Finance and HR) without delay, along with specimen signatures.
- 24.20 To ensure that an agreement to pay any suppliers by direct debit is not entered into without the agreement of the Assistant Director (Finance and HR).
- 24.21 To ensure that all invoices are paid within 30 days, unless the supplier's terms of trade vary. The only exception is where the invoice is disputed. In this instance, the Creditor's section must be notified of the dispute.
- 24.22 To ensure that leasing or rental arrangements are not entered into without prior agreement of the Assistant Director (Finance and HR). This is because of the potential impact on the Authority's borrowing powers, to protect the Authority from entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 24.23 To notify the Assistant Director (Finance and HR) of outstanding expenditure relating to the previous year as soon as possible after 31 March and inline with the timetable issued.
- 24.24 To notify the Assistant Director (Finance and HR) immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 24.25 To ensure that any payment by the Council's debit card or purchasing card is in accordance with the instructions issued by the Assistant Director (Finance and HR).
- 24.26 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention policy.

### **General**

- 24.27 Every officer and member of the Authority has a responsibility to declare any links or personal interests that they have with purchasers, suppliers and/or contractors if they are engaged in any contractual or purchasing decisions on behalf of the Authority, in accordance with appropriate codes of conduct.
- 24.28 All orders must be in the name of North Warwickshire Borough Council and must be in a form approved by the Director of Resources.
- 24.29 Official orders must be in a form approved by the Assistant Director (Finance and HR).
- 24.30 Official electronic orders must be issued for all work, goods or services to be supplied to the Council except for supplies of gas, electricity, water and telephone services, work carried out under written contracts, for periodical payments such as rent or rates, for petty cash purchases, payment of Officers' professional fees or other exceptions as the Assistant Director (Finance and HR) approves.
- 24.31 Verbal orders must be confirmed by electronic order the same day and be marked "Confirmation Order."

- 24.32 The Officer issuing the order has overall responsibility for examining, verifying and authorising the related invoice.
- 24.33 Apart from petty cash, the normal method of payment is by BACS or cheque or by other approved method, drawn on the Authority's bank account. The use of direct debit requires the agreement of the Assistant Director (Finance and HR).
- 24.34 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of any of the Authority's contracts.
- 24.35 No officer is allowed to certify an invoice or claim form for reimbursement of expenditure to him/herself.

## 25 **CONTRACTS**

### **Responsibilities of the Assistant Director (Finance and HR)**

- 25.1 To keep a contract register for payments to be made by instalments to show the state of account on each contract between the Council and the contractor.
- 25.2 To examine final accounts for contracts, to the extent he/she considers necessary, and to make all such enquiries and receive such explanations as he/she may require to satisfy himself/herself as to the accuracy of the accounts.
- 25.3 Where a contractor is unable to complete the material works of a contract, due to financial instability, bankruptcy, etc, arrange for alternative insurance cover and assess the financial and contractual position.

### **Responsibilities of the Assistant Director (Information Services and Procurement)**

- 25.4 To maintain a register of all Council-wide contracts and update on a regular basis. This is to be maintained on the Internet.

### **Responsibilities of Senior Officers**

- 25.5 To notify the Assistant Director (Finance and HR) as soon as possible of all contracts, agreements, awards or other methods involving the payment or receipt of money on behalf of the Council.
- 25.6 To authorise payments on account to contractors on a certificate which complies with all tax requirements, issued by the appropriate Officer or other authorised Officer of the Council or other person appointed by the Council, showing the total amount of the contract, the value of work done to date, retention money, amount paid to date and the amount now certified as due.
- 25.7 Every variation, addition to, omission from, or alteration in identity of the parties to a contract should be authorised in writing by the appropriate Officer or other person in control of the works. The notification should specify the estimated cost or saving involved and a copy of all such notifications should be sent to the Assistant Director (Finance and HR).
- 25.8 To report to the appropriate Board where a variation of a contract exceeds £5,000 or 10% of the contract sum, whichever is the greater, or any contract exceeds its contract sum by more than 10%, for whatever reason, details of the variation or overspend and the reason(s) for it, as soon as practicable and to every following appropriate Board until the scheme is completed.

- 25.9 The final sum due under any contract or accepted estimate may not be certified for payment until a detailed statement of accounts, together with such documents, vouchers and information as the Director of Resources may require relating to prime costs, quantities, variations, rates, additions or omissions, has been approved by the Assistant Director (Finance and HR) or his/her representative.
- 25.10 It is the responsibility of the Senior Officer concerned to ensure that the final account is correct before being sent to the Assistant Director (Finance and HR).
- 25.11 To refer claims from contractors in respect of matters not clearly within the terms of an existing contract to the Solicitor to the Council for consideration of the Council's legal liability, and where necessary, to the Director of Resources for financial consideration before a settlement is reached.
- 25.12 Where a contractor is unable to complete the material works of a contract, due to financial instability, bankruptcy, etc, the Senior Officer will report to the Board concerned and will secure the site immediately, arrange with the Assistant Director (Finance and HR) for alternative insurance cover and assess the financial and contractual position. Arrangements will be made for alternative contractors to continue or complete the works, by following contract standing orders as to the employment of contractors.
- 25.13 Where completion of a contract over £40,000 is delayed beyond the contract period, to take appropriate action in respect of any claim for liquidated damages and to report this to the Board concerned.
- 25.14 To notify the Assistant Director (Finance and HR) of any leasing or rental agreements prior to entering into such a contract.
- 25.15 To notify the Assistant Director of all contracts entered into and contracts being arranged to enable monitoring of financial limits according to Contract Standing Orders, and to facilitate value for money.

### **General**

- 25.16 Officers must not purposely disaggregate orders/contracts to avoid the limits and processes set out in contract standing orders.
- 25.17 Where orders for goods, services, materials, or for the execution of any work are made on a continuous basis for the same type of work with the same supplier, and it is envisaged that the total amount of such purchases in any one year will exceed the amounts specified in Contract Standing Orders, then the provisions and limits within those Standing Orders will apply. Orders of this type should be subject to competition.

## **26 PAYMENTS TO EMPLOYEES AND MEMBERS**

### **Why is this important?**

- 26.1 Staff costs are the largest item of expenditure. It is therefore important that payments are accurate, timely, made only where they are due for services to the Authority and that payments are in accordance with individual's conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

## **Key Controls**

26.2 The key controls for payments to employees are:

(a) Proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:

- Starters
- Leavers
- Variations
- Enhancements

and that payments are made on the basis of timesheets or claims if appropriate.

(b) Frequent reconciliation of payroll expenditure against approved budget and bank account.

(c) All appropriate payroll documents are retained and stored for the defined period in accordance with the document retention scheme.

(d) That Inland Revenue regulations are complied with.

## **Responsibilities of the Assistant Director (Finance and HR)**

26.3 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with prescribed procedures on the due date.

26.4 To make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

26.5 To make arrangements for payment of all travel and subsistence claims or financial loss allowances.

26.6 To make arrangements for paying Members' travel or other allowances upon receiving the prescribed form, duly completed.

## **Responsibilities of Senior Officers**

26.7 To ensure that appointments, resignations, dismissals, suspension, secondments and transfers are made in accordance with the regulations of the Authority and approved establishments, grades and scales of pay and that adequate budget provision is available.

26.8 To ensure that adequate and effective systems and procedures are operated, so that:

- Payments are only authorised to bona fide employees
- Payments are made only where there is a valid entitlement
- Conditions and contracts of employment are correctly applied
- Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness

26.9 To send an up to date list of the names of officers to sign timesheets and claims to Payroll.

- 26.10 To give careful consideration to the employment status of individuals employed on a self-employed consultant or sub-contract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from Payroll.
- 26.11 To certify travel, subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that Payroll is informed, where appropriate.
- 26.12 To ensure that Payroll is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax assessment system.
- 26.13 To notify the Assistant Director (Finance and HR) in an agreed form and time of all absences from work for sickness.

### **Responsibilities of Members**

- 26.14 To submit claims for Members' travel and subsistence allowances on a monthly basis.

## **27 TAXATION**

### **Why is this important?**

- 27.1 Like all organisations, the Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **Key Controls**

- 27.2 The key controls for taxation are:
- (a) budget managers are provided with relevant information and kept up to date on tax issues
  - (b) budget managers are instructed on required record keeping
  - (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
  - (d) records are maintained in accordance with instructions
  - (e) returns are made to the appropriate Authorities within the stipulated timescale

### **Responsibilities of the Director of Resources**

- 27.3 To complete all Inland Revenue returns regarding PAYE.
- 27.4 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 27.5 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

- 27.6 To maintain up to date guidance for Authority employees on taxation issues in the accounting manual and the tax manual.

### **Responsibilities of Senior Officers**

- 27.7 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.
- 27.8 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 27.9 To ensure that all persons employed by the Authority are added to the Authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 27.10 To follow the guidance on taxation issued by the Director of Resources in the Authority's accounting manual and VAT manual.

## **28 TRAVEL, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCES**

### **Responsibilities of the Assistant Director (Finance and HR)**

- 28.1 To arrange for payment to be made as appropriate.
- 28.2 To set in place a process to check the insurance, license and MOT details for any officer using his/her car for official business.

### **Responsibilities of Senior Officers**

- 28.3 To send the names of Officers authorised to certify travel and subsistence claims to the Assistant Director (Finance and HR), together with specimen signatures and to amend this, as appropriate. The certification by or on behalf of the Senior Officer means that the certifying Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

### **Staff responsibility**

- 28.4 It is the responsibility of each officer using his/her car for official business to have up-to-date insurance and MOT cover. Details should be provided at least annually to the Assistant Director (Finance and HR) or his/her representative. Travel allowance will not be paid to any officer who does not produce the necessary documentation.
- 28.5 To ensure that all claims for payment of car allowances, subsistence payments, travelling and incidental expenses are submitted, certified in a form approved by the Assistant Director (Finance and HR), to him/her, within seven days of a specified day of each month.
- 28.6 In any instance where a spouse or other person is authorised to drive a leased car, then it is the responsibility of the leased car holder to produce that person's driving licence as part of the annual check carried out by the Assistant Director (Finance and HR).
- 28.7 Any change in the status of the driving licence, including penalty points, of the leased car holder or other person must be notified to the Assistant Director (Finance and HR) promptly.

- 28.8 Officers are responsible for any parking or speeding fines, even if incurred whilst on official business.
- 28.9 Officers' claims submitted more than three months after the expenses were incurred will be paid only with the approval of the Director of Resources.
- 28.10 Payments to Members, including co-opted Members of the Council or its Boards who are entitled to claim travelling or other allowances will be made by the Assistant Director (Finance and HR) upon receipt of the appropriate completed form. All claims for a financial year should be submitted within one month of 31 March.
- 28.11 Payment to approved individuals/groups who are entitled to claim travelling or other allowances will be made by the Assistant Director (Finance and HR) upon receipt of the appropriate completed form.

## **E EXTERNAL ARRANGEMENTS**

### **29 PARTNERSHIPS**

#### **Why is this important?**

- 29.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local Authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 29.2 Local Authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local Authorities will be measured by what they achieve in partnership with others.

#### **General**

- 29.3 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk
  - (b) the ability to access new resources
  - (c) to provide new and better ways of delivering services
  - (d) to forge new relationships
- 29.4 A partner is defined as either:
- (a) an organisation (private or public undertaking), part funding or participating as a beneficiary in a project
- or
- (b) a body whose nature or status give it a right or obligation to support the project
- 29.5 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others
  - (b) acting as a project funder or part funder

- (c) being the beneficiary group of the activity undertaken in a project

29.6 Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- (c) be open about any conflict of interests that might arise
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project

### **Key Controls**

29.7 The key controls for Authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the Authority's financial regulations and the code of practice on tenders and contracts
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution

### **Responsibilities of the Director of Resources**

29.8 To advise on effective controls that will ensure that resources are not wasted.

29.9 To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements

29.10 To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of Senior Officers**

29.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Director of Resources.

29.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Director of Resources.

29.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Authority.

29.14 To ensure that all agreements and arrangements are properly documented.

29.15 To provide appropriate information to the Director of Resources to enable a note to be entered into the Authority's statement of accounts concerning material items.

## **30 EXTERNAL FUNDING**

### **Why is this important?**

30.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Authority. Local Authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies, such as the National Lottery and the single regeneration budget, provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

### **Key Controls**

30.2 The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council.
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Director of Resources/ Assistant Director Finance and HR**

30.3 To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

30.4 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

30.5 To ensure that audit requirements are met.

## **Responsibilities of Senior Officers**

- 30.6 To ensure that the Assistant Director is notified of all applications and approvals for external funding.
- 30.7 To ensure that all claims for funds are made by the due date.
- 30.8 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## **31 WORK FOR THIRD PARTIES**

### **Why is this important?**

- 31.1 Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise.
- 31.2 Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.

### **Key Controls**

- 31.3 The key controls for working with third parties are:
  - (a) to ensure that proposals are costed properly in accordance with guidance provided by the Director of Resources
  - (b) to ensure that contracts are drawn up using guidance provided by the Director of Resources and that the formal approvals process is adhered to

## **Responsibilities of Senior Officers**

- 31.4 To ensure that the approval of the appropriate Board is obtained before any negotiations are concluded to work for third parties.
- 31.5 To maintain a register of all contracts entered into with third parties.
- 31.6 To ensure that appropriate insurance arrangements are made through the Assistant Director (Finance and HR).
- 31.7 To ensure that the Authority is not put at risk from any bad debts.
- 31.8 To ensure that no contract is subsidised by the Authority, unless this decision has been approved by Resources Board.
- 31.9 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 31.10 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 31.11 To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- 31.12 To ensure that all contracts are properly documented.
- 31.13 To provide appropriate information to the Director of Resources to enable a note to be entered into the statement of accounts.

## CONTRACT STANDING ORDERS

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## CONTRACT STANDING ORDERS

### 1 PURPOSE

The purpose of Contract Standing Orders is to set clear rules for the procurement of goods, works and services for the Council, in accordance with Section 135 of the Local Government Act 1972 and to support the Council's objective of achieving best value in accordance with Part 1 of the Local Government Act 1999 and ODPM Circular 03/2003.<sup>1</sup>

This is to ensure a system of openness, integrity and accountability where the probity and transparency of the process will be beyond reproach and where competition is properly encouraged.

In turn this will lead to better value for money and give confidence to all concerned that the Council is fulfilling its fiduciary responsibilities and meeting the requirements of Best Value.

These Orders are also to ensure that rules, regulations and proper practices are in place to safeguard the Council from maladministration in the letting of contracts.

Any dispute or difference as to the interpretation of Contract Standing Orders and the Council's Financial Regulations or any other relevant document shall be resolved by the Solicitor to the Council.

#### **WHEN DO CONTRACT STANDING ORDERS APPLY?**

Contract Standing Orders apply to any procurement or tendering process or contract entered into by the Council for the provision of goods, services and works and to any concession, or the disposal of land, property or other assets.

This includes involvement by the Council in partnerships and other joint working where that is funded partly or entirely by external funding, to the extent that the money passes through the Council's accounts.

<sup>1</sup> Section 135 of the Local Government Act 1972 provides that Local Authorities may make regulations with respect to the making of contracts generally and must do so with respect to the making of contracts for goods, materials and the execution of works. The section further provides that the mandatory regulations relating to contracts for goods and works must include provisions to secure competition for such contracts and for determining the manner in which tenders are invited.

The Local Government Planning & Land Act 1980, and the associated Regulations and require a Local Authority to invite tenders from other persons in competition with its Direct Labour Organisation, in certain circumstances.

The European Union requires certain Public Service Contracts for work, supply or services to be tendered within the European Community, in accordance with its Procurement Directives.

The Local Government Act of 1999 and ODPM circular 03/2003 and subsequent Value for Money guidance notes of August 2004 establish guidance on achieving Best Value in public procurement.

## 2. DEFINITIONS

In these Contract Standing Orders:-

“Council” includes any of the following acting under delegated powers: A Board, Committee, Panel or Area Forum, Joint Committee or Officer.

“Firm” includes any sole trader, partnership or company (limited or unlimited) or any duly incorporated trade, professional or commercial body.

“Contract” means an Agreement between the Council and any Firm made by formal agreement or by the issue of a letter of acceptance, note, memorandum or official order for the carrying out of work, or for the supply of goods or services. Such agreement may be made by Contract, Purchase Order, Procurement Card or other method, as approved by the Council or its Senior Officers.

“Partnership” means a form of Contract between the Council and any Firm that includes some form of arrangement for sharing risk and/or reward in addition to the usual considerations for payment.

“Contractor” means any firm with which the Council enters into a Contract.

“Supplier” means a Firm with whom the Council has entered into a Contract for the supply of goods and services.

“Leader of the Council” means the Chairman of the Council’s Executive Board.

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

“Director” means the Director of Resources or the Director of Community and Environment.

“Quotation” means a formal written offer (not being a tender) to supply or purchase goods or services or to carry out work up to a value of Level B (see paragraph 5.4 below).

“Senior Officer” means the Chief Executive, a Director, an Assistant Director or the Assistant Chief Executive.

“Officer” means an employee of the Council.

“Procuring Officer” means a Senior Officer or Officer who is responsible and accountable for procuring a Contract.

“Authorised Officer” means any Officer of the Council with authority to raise a purchase order or call off order or otherwise purchase within an existing Contract and within their delegated authority.

“Tender” means a written offer from a Firm to contract goods or services at a specific cost or rate, or bid, following the Tendering Process detailed herein. In the case of an in-house contractor, tender includes the submission of a quotation.

“Order” means a purchase order placed by the Council to its own terms and conditions.

“Written” includes transmission electronically in a format defined or approved by the Council.

“Procurement Affiliation” or “Affiliated Procurement Councils” means any other Council or public body, or group or organisation of Councils or public bodies, with or through which the Council has an arrangement for the procurement of goods or services.

All references to a paragraph are references to the relevant paragraph of these Contract Standing Orders unless the context otherwise requires.

### **3 Policy**

#### **3.1 General Policy**

- (1) Every contract made by or on behalf of the Council must comply with these Contract Standing Orders, the Council's Financial Regulations and Standing Orders, and, where appropriate, the Council's Procurement Strategy.
- (2) All Council employees and Firms engaged to act in any capacity to manage or supervise a Contract must comply with the requirements set out in paragraph 3.1(1) above, and each Senior Officer must ensure such compliance in the Division for which he/she is responsible.
- (3) Current National or European Union legislation takes precedence over these Contract Standing Orders.
- (4) Subject to paragraph 3.1(3) above, no exception to these Contract Standing Orders can be made unless authorised by the appropriate Board, acting under delegated powers, or by the Council itself.
- (5) Except as in paragraph 3.1(3) above, these Contract Standing Orders take precedence over any supplier agreements and terms and conditions.
- (6) All Council employees and Firms engaged on the Council's behalf must ensure that any conflicts of interest are avoided, in accordance with the Council's Financial Regulations.
- (7) Contracts will typically be awarded on a “most economically advantageous basis” which takes into consideration cost, reliability, durability, service level and other aspects of quality. The award criteria for any Contract will be determined by the Procuring Officer and be based upon Appendix 3 below.
- (8) Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's scheme of delegation.
- (9) A contract may only be entered into where there is provision in the Revenue Budget or it is part of a scheme in the Capital Programme, which has been approved by the Council.
- (10) An estimate of the aggregate contract cost shall be prepared and identified and approved before tenders are invited.
- (11) Officers are fully expected to manage contracts to cost, quality, time and budget. In the event of variation to any one of these officers will follow the procedures for remedy within these Contract Standing Orders (see paragraphs 9.3 and 9.4 below).

### **3.2 Conduct of Officers and Members**

Any Officer, Member or agent of the Council, whilst acting on the Council's behalf in relation to any contractual matter directly or indirectly concerning the Council, shall conduct themselves in such a manner that the independence and integrity of the Council's procedures are at all times maintained and are seen to be maintained.

Failure to observe such standards of conduct will be regarded by the Council with the utmost gravity.

Members and Officers shall also comply with the relevant Codes of Conduct and the Member/Officer Protocol as set out in Section 5 of the Council's Constitution when dealing with contractual matters.

## **4. Procurement Strategy**

### **4.1 Value**

The Council will establish contracts and make purchases in line with the following internal and national public guidelines:

- The Council's Standing Orders.
- Part 1 (Best Value) of the Local Government Act, 1999.
- ODPM Circular 03/2003 (or any amendment or replacement of that circular).
- National legislation.
- OJEU Procurement Requirements.

The Officer responsible for establishing any Contract will be responsible for the full evaluation of any tenders in accordance with the criteria agreed prior to tendering.

The justification to procure (as opposed to resourcing internally) will be established to the satisfaction of the Council, prior to any tendering taking place.

The Procuring Officer shall appraise any external procurements, partnerships or joint purchasing arrangements to which the Council has access as part of the process for determining how goods or services are to be procured. The justification to use any Contract established by a third party that is available to the Council without prejudicing its obligations to competition will be established to the satisfaction of the Council prior to agreeing its exemption from tendering requirements.

The policies of the Council regarding local development of the economy will be considered during procurement. Local Firms will be given every opportunity to participate in tenders, and they will be considered for short listing as long as the costs of using them do not exceed the cost of the lowest priced proposal by more than 5%.

### **4.2 Compliance**

Contractors and suppliers of goods and services will comply with the appropriate legislation and standards (see Appendix 4) in the performance of the contract or supply:

- (1) All relevant and current Health and Safety legislation and regulations.

- a. In particular report to the Council regarding materials such as Asbestos and Lead in accordance with COSHH requirements.
  - b. The Council's own policies, as advised to suppliers.
- (2) All relevant and current Equal Opportunities legislation and regulations.
- a. The West Midlands Forum guidelines on Equal Opportunities for Contractors [www.cre.gov.uk/downloads/council\\_contracts.pdf](http://www.cre.gov.uk/downloads/council_contracts.pdf)
  - b. The Council's own policies, as advised to suppliers.
- (3) All relevant and current Environmental legislation and regulations.
- a. The Contractor shall be required to show their compliance with all appropriate Acts for the sector in which the Supplier operates.
  - b. The Contractor shall be required to show their compliance with all environmental regulation and guidance relevant to the goods and services supplied.
  - c. To support the Council's own policies, including the Council's obligations in:
    - i. Promoting environmental sustainability in development.
    - ii. Ensuring protection for the Council's environmental resources.
    - iii. Making more sustainable use of energy & reduce contributions to climate change.
    - iv. Satisfying the Council's statutory legal responsibilities in respect of home energy efficiency.
    - v. Managing waste more sustainably, monitoring and preventing pollution.
    - vi. Improving the quality of neighbourhoods and local environments.
    - vii. Reducing the environmental impacts of goods and materials used, including transportation.
- (4) All relevant Council policies, including Financial Regulations, and in particular:
- a. The Council's requirements on Declaration of Interests<sup>2</sup>
  - b. The Contractor's Code of Conduct<sup>3</sup>
  - c. The Employee Code of Conduct<sup>4</sup>
  - d. The Confidential Reporting (Whistle Blowing) Policy<sup>5</sup>
  - e. The Information Security Policy<sup>6</sup>
- (5) All relevant and current Data Protection legislation and regulations.

- a. The Contractor shall be required to comply in all respects with the provisions of the Data Protection Acts 1984 and 1988 and to indemnify the Council against all actions costs expenses claims proceedings and demands which may be made or brought against the Council for breach of statutory duty under the Act which arises from the use disclosure or transfer of personal data by the Contractor and agents.
- (6) All relevant and current Freedom of Information legislation and regulations.
- a. It is the practice of the Council to share information in accordance with the Freedom of Information Act regarding the awarding of tenders and contracts.
  - b. The Council will not disclose any information held under the Data Protection Act 1998, information about negotiations which affect commercial interest, or information classified by Contractors or Suppliers as company confidential, including specific pricing information, unless such information is already public information or the Council is under a legal obligation to disclose it.

<sup>2</sup>See the Member and Employee Codes of conduct within Part 5 of the Council's Constitution

<sup>3</sup>

<sup>4</sup>See Part 5 of the Council's Constitution

<sup>5</sup>Available on the Council Intranet

<sup>6</sup>Available on the Council Intranet

- (7) Such specific requirements of the Council as it may determine from time to time, including for Contracts which provide services to vulnerable constituents, complying with any legislation, regulation or Council policy about the probity and reliability of a Firm's staff or sub-contractors such as requiring a Criminal records Bureau (CRB) check.

### **4.3 Budgeting and Forecasting**

Officers will be authorised to procure in line with the Council's established budgets.

As budgets are established, the Council will determine what contracts are due to be awarded or re-tendered in the course of its financial year and issue appropriate notices to that effect, including:

- (1) Prior Information Notices (PIN) where required under OJEU regulations.
- (2) Advisory notices to current contractors.
- (3) A statement of intent on the Council's website.

### **4.4 Aggregation**

Aggregation within a department or function will be dealt with in accordance with these Contract Standing Orders by the Senior Officer responsible for that Department or Function.

The Council will determine as part of its budgeting cycle, the implication risks of aggregation across (but not within) all of its departments and functions and determine what actions are appropriate in terms of awarding Contracts.

In order to achieve Best Value the Council recognises that the administrative waste of duplicated work must be minimised. It also recognises its obligations under the terms of the Aggregation Rules and that it needs to take a strategic and corporate view of its place in the market and commercial environment in which it operates, and that in order to deliver Best Value to its constituents, it must maximise its economic leverage.

In the light of this, where identical or very similar requirements arise in more than one Division, Section, Service, or other part of the Council, or where requirements are shared between such parts of the Council, then those requirements should be aggregated for the purposes of procurement, and for those purposes no part of the Council shall operate independently of any other.

For the avoidance of doubt, aggregation of demand shall not be taken to mean that single source contracts are always the most appropriate solution to any particular requirement, and it shall be through the application of a strategic sourcing approach and employment of cross service procurement techniques that the Council will pursue the best value option available to the Council and the public as a whole in each case.

In accordance with legislation on the subject, once a Contract has been let on behalf of the Council for use by all Services, it shall be a requirement for all Services to use the Contract for the provision of the Supplies, Services, or Works concerned, and the responsibility of all Services to ensure their compliance with the terms of the Contract.

Contract values cannot be knowingly divided to fall below thresholds.

## **5 Authorities, Delegation and Competition**

### **5.1 Delegated Authority**

Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks.

### **5.2 Exceptions**

Any contract award that involves the transfer of staff from the Council to a third party needs the approval of the Council regardless of any delegated authorities.

Any goods, works or services to be procured under paragraph 6.2(4) below provided that it is in accordance with the delegated authorities above.

### **5.3 Value Added Tax (VAT)**

All figures in Contract Standing Orders are net of VAT.

### **5.4 Competition and Overall Contract Value**

Any Officer procuring on behalf of the Council must ensure that the conditions for competitive tendering prior to awarding any Contract are met, in relation to the overall value of the Contract, in accordance with the following minimum requirements on the number of Firms to be invited and the method of advertising.

The Value/Expenditure must consider the whole life costs of the Contract being awarded, not the annual spend. As guidance, Contract length should be between one and four years, and should bear in mind the time and costs of procurement.

<b>Level</b>	<b>Value/Expenditure</b>	<b>Number of Firms to be invited</b>	<b>Advertising</b>
0	Up to £1,100	At least 2 Firms. Quotations may be oral and will be confirmed via the Council's Purchase Order.	Not Required
A	£1,101 to £5,500	At least 2 Firms. Quotations to be provided in writing.	Not Required
B	£5,501 to £43,500	At least 3 Firms. Quotations to be provided in writing.	On Website unless an Approved List is current
C	£43,501 to £108,500	At least 4 Firms. Tenders to be provided in writing.	On Website and in Local Press unless an Approved List is current
D	£108,501 to OJEU levels	At least 4 Firms. Tenders to be provided in writing.	On Website and in Trade and Local Press as appropriate unless an Approved List is current
E	OJEU levels and above	As required by OJEU Regulation	

Note, if sufficient quotations cannot be obtained due to lack of suitable Firms prepared to quote, then the appropriate Senior Officer must keep a record of the reasons for this. Where the contract value is at Level C or above and a sufficient number of suitable Firms willing to be included on a tender list cannot be obtained, approval must be sought from the appropriate Board before proceeding to obtain tenders.

If the appropriate Senior Officer feels that it is inappropriate in the interests of the efficient management of the service to seek this number of quotations then that Senior Officer must keep a record of the reasons for this.

Where there is an Approved List of Tenderers in existence then that Approved List must be used as the source of providing the names of contractors from whom quotations or tenders are sought.

Records to be kept under this Contract Standing Order shall be in a format to be determined by the Director of Resources.

### **Index Linking**

At least every two years, the Director of Resources shall review and may revise any of the figures referred to in these Contract Standing Orders having regard to changes in the appropriate Index since the last review. Notification of any such changes shall be reported to the Resources Board for the information of Members and Officers.

## **5.5 Exceptions to Requirements of Competition**

Subject to the requirements of the Council's Financial Regulations, paragraph 5.4 above will not apply to:-

- (1) The purchase of proprietary or patented goods or materials or services which in the opinion of the appropriate Senior Officer are obtainable only from one Firm, and where no reasonably satisfactory alternative is available;
- (2) The execution of works or supply of services of a specialised nature which in the opinion of the appropriate Senior Officer are carried out by only one Firm, and where no reasonably satisfactory alternative is available;
- (3) The purchase of goods or materials, the execution of works or supply of services for which the appropriate Senior Officer considers that no genuine competition can be obtained;
- (4) The purchase of a named product required to be compatible with an existing installation as approved by the appropriate Senior Officer;
- (5) Where the work to be done or the goods to be supplied constitute any extension to an existing contract and it is in the Council's best interest to negotiate with the existing contractor/supplier;
- (6) Where the work to be done or the goods to be supplied are repairs to or parts for the Council's existing equipment;
- (7) The instruction of, advice from or service provided by Counsel or instructions to Solicitors to act on the Council's behalf;
- (8) Procurements made through or on behalf of any consortium, association or similar body provided that tenders or quotations are invited and contracts placed in accordance with procedures which are equivalent to these Contract Standing Orders and also comply with any national or EU legislation;
- (9) The purchase of second hand vehicles, plant or equipment;
- (10) Purchases, works and services required by the appropriate Senior Officer so urgently as not to permit compliance with the requirements of competition, and the Director of Resources or the Solicitor of the Council agrees;
- (11) The purchase or sale of property or articles at an auction sale.

Where it is intended to invoke the provisions of this Contract Standing Order, the appropriate Senior Officer must advise the relevant Board in all cases where the value of the contract exceeds or is likely to exceed Level C.

## **6 TENDERING**

### **6.1 Tendering Rules and Regulations**

Before entering into a tendering process, or arranging for works or services to be carried out by another Senior Officer, the appropriate Senior Officer must:-

- (1) Be satisfied that a specification which will form the basis of the contract/arrangement, has been prepared; and
- (2) Have prepared and documented an estimate of the cost of the contract/arrangement, including where appropriate any maintenance costs; and
- (3) Have decided the preferred form of the contract/arrangement, determining if a Partnership is appropriate for the requirement.

#### Guidelines on Partnering and Partnerships.

The Council may enter into a Partner style framework where the costs of administering such an arrangement are recovered through achieving better value for money for the Council. A Partnership agreement will include a standard contract tender and a Service Level Agreement which may be finally negotiated with the Supplier after the tendering process itself is complete, since it involves detailed operational discussions about working arrangements.

An outline for Partner Agreements is included as Appendix 6.

## 6.2 Pre Tendering

Before commencing any proposed procurement process, the Procuring Officer must:

- (1) Assess the likely costs to the Council over the lifetime of the Contract and ensure it is adequately budgeted.
- (2) Determine whether there is a case for exemption from contract regulations (except for those subject to EU regulations) which is permissible where the Council is satisfied that special circumstances justify exemption.
- (3) Consult any other Senior Officer who may, through a Direct Services Organisation, be able to provide the goods, materials, works or services required or who may otherwise advise on or assist with this provision, to ascertain whether that Senior Officer would wish to submit a quotation or tender, or, subject to paragraph 3.1 above, carry out the contract free from competition.
  - a. If the Senior Officer referred to above decides that he/she would wish to submit a quotation or tender, through a Direct Services Organisation, then that Senior Officer will be included on the list of contractors invited to quote/tender under these Contract Standing Orders.
  - b. If the Senior Officer referred to above decides that he/she would wish to carry out the contract, through a Direct Services Organisation free from competition, and provided that he can demonstrate that this constitutes value for money, then the contract will be carried out by that Senior Officer on that basis, unless the Solicitor to the Council, in consultation with the Director of Resources, determines otherwise.
- (4) Review any regional or other collaborative framework for suitability. The requirements in these Contract Standing Orders for obtaining tenders or quotes shall not apply where either:
  - a. the Council is part of a group such as a Procurement Affiliation (such as Warwickshire Procurement Network) or a Consortium of one or more councils contracting with the same supplier to provide a particular good or service, and where the Council is not the lead authority in the group, and the contract has been tendered and the form of contract agreed in accordance with the contract standing orders of another borough council in the consortium, which is transparent to the Council; or
  - b. a recognised Contracting Authority (such as ESPO) has contracted with a supplier to provide a particular good or service, and where the Council is not the lead authority in the Consortium, and the contract has been

tendered and the form of contract agreed in accordance with European Legislation, which is transparent to the Council; or

- c. Where the Government procurement schemes “Catalyst” or GTC are to be used.
- (5) Determine whether or not an appropriate Approved List exists for tendering purposes. The Council will use the following Approved Lists:
- a. Approved lists which are nationally maintained (such as OGC and ConstructionLine) or regionally maintained by appropriate bodies.
  - b. For other specific supplies of goods and services, Approved Lists may be maintained by Senior Officers in accordance with the following guidelines:
    - i. Approved Lists will be maintained for areas notified to Suppliers via the Council’s web site, where it is considered to be practical and in the Council’s financial interests.
    - ii. Any Approved List will last no longer than four years, at which point it must be re-advertised on the Council’s website and any Firm on the Approved List must be advised to resubmit the information and any supplementary information then required.
    - iii. Approved Lists will comprise contractors, suppliers, and consultants that can demonstrate they are capable of satisfactorily performing contracts of the type and size for which they have been approved.
    - iv. There is no obligation on any Procuring Officer to maintain an Approved List.
  - c. Any such Approved List must:-
    - i. Ideally, comprise at least six Firms.
    - ii. contain the names of all Firms who wish to be included in it, who comply with the criteria set for inclusion, and are approved by the relevant Senior Officer, after taking up references and any other relevant enquiries.
    - iii. Indicate whether each Firm is approved for all or only some of the specified values or categories.
    - iv. Be administered by the relevant Senior Officer.
    - v. Be amended periodically and at a frequency that reflects the usage made of the Approved List itself in inviting Firms to respond to tenders, but no less than every two years. Such updates must take place through a questionnaire which Firms are obliged to complete and as a minimum vets them for:
      - Technical ability, capacity and experience.
      - Health and safety records and standards.

- Financial standing.
  - Insurance arrangements.
- vi Amendments to any list will be recorded by the relevant Senior Officer and any Firm deleted from the list shall be advised of the reason for such deletion.
  - vii Senior Officers may, in consultation with the Chief Executive, suspend a Firm from an Approved List until the next meeting of the relevant Board if they have serious concerns about the financial stability, technical capability or health and safety practices of the Firm, or there are allegations of impropriety requiring investigation.
  - viii The relevant Board has the power to remove or suspend any Firm from an Approved List.
  - ix The relevant Board will review four yearly the assignment of Contracts to Firms on any Approved List to ensure that contracts have been awarded fairly across those Firms.

### **6.3 Advertising Requirements**

Where notice of a Contract has to be advertised on the Council website, then it should be posted there at least ten days before tenders (or quotations for contracts of a value not exceeding Level B) are to be issued to interested Firms.

Where notice of a Contract has to be advertised in the local press, then it should be placed at least ten days before tenders are to be issued to interested Firms, or at the same time as any Trade press advertisement if that is sooner.

Where notice of a Contract has to be advertised in the Trade press, then it should be placed at least twenty one days before tenders are to be issued to interested Firms.

The notice must set out details of the proposed contract, and invite Firms interested to apply within such period as may be specified, (being not less than ten days), for permission to tender. Clear instructions shall be given in the advertisement regarding the arrangements for the delivery and receipt of applications with particular reference to a deadline for receipt.

Every notice of a Contract must clearly:

- describe the scope of the Contract to be tendered;
- advise that the Council will invite Tenders for their execution;
- invite Firms to complete an Application Form to register their interest in tendering;
- state what Contractors will have to do to quote or to tender; and
- State the Closing Date for both Application Forms and the Tender.

The rules for the receipt of Application Forms and of Tenders are set out in paragraph 6.7 below

### **6.4 Electronic Tendering**

The Council may choose to run any Tender by electronic means, as it strives to achieve its own targets for E-Procurement.

Pre Qualifying Questionnaires, Requests for Quotations, and Invitations to Tender may be transmitted by electronic means. Questionnaires, quotations and tenders may be submitted by electronic means provided that:

- (1) evidence that the transmission was successfully completed is obtained and recorded;
- (2) evidence of correspondence by e-mail is retained;
- (3) electronic tenders are kept in a separate secure folder under the control of the Assistant Director (Information Services and Procurement) or the Assistant Chief Executive, which is not opened until the deadline has passed for receipt of tenders.

The Council may participate in e-Auctions.

- (1) Where the Council runs its own e-Auction, or has an e-Auction executed solely on its behalf, the criteria for awarding the Contract will be made explicit to all qualifying tendering Firms. The Council will publish the timetable for the e-Auction giving due notice to participating Firms.
- (2) Where the Council participates in a group e-Auction, the Procuring Officer will ensure that:
  - a. The Council's requirement represents a distinct Lot within the e-Auction, whose award is subject to the Council's own criteria if these differ from the group criteria.
  - b. That the Council's commitment to any Firm is dependent upon their satisfying all relevant criteria and obligations under these Contract Standing Orders.
  - c. That the costs of the e-Auction itself represent value for money within the procurement process when compared with traditional procurement methods.

## **6.5 Tendering Procedures**

### **6.5.1 Approved Tendering Procedure**

This Contract Standing Order requires Invitations to Tender to be limited to Firms whose names are on an Approved List produced in accordance with paragraph 6.2(5) above, and must be sent out to the number of Firms in accordance with the scale shown in paragraph 5.4 above.

Where there are fewer contractors listed for the value and category of contract proposed, all the contractors listed must be invited to tender, unless the appropriate Senior Officer considers this to be inadvisable.

The Approved Tendering Procedure operates as follows:

- (1) The Procuring Officer will obtain the relevant authority to proceed with the tender to the Approved List.

- (2) The Procuring Officer will produce a notice briefing firms of the Council's requirements.
- (3) The Procuring Officer will invite all Firms on the Approved List to submit an expression of interest in response to the briefing within a fourteen day period.
- (4) From those Firms that express an interest in response to the briefing, the Procuring Officer will invite at least the minimum number of Firms (as set out in paragraph 5.4 above) to submit a tender.
- (5) All Tenders will be received and opened in accordance with paragraph 6.7 below.
- (6) All Tenders will be assessed in line with paragraph 7 below.
- (7) All responding Firms will be duly notified of the outcome of the tender process.
- (8) Firms will be given a seven day notice of the intention to award the Contract in case they wish to clarify their response prior to its award.

### **6.5.2 Restricted Tendering Procedure**

This Contract Standing Order applies to contracts with an estimated value of Level C or above, and where no Approved List has been established under paragraph 6.2(5) above, or if the relevant Senior Officer considers that paragraph 6.5.1 above is inappropriate.

The Restricted Tendering Procedure operates as follows:

- (1) The Procuring Officer will obtain the relevant authority to proceed with the tender.
- (2) The Procuring Officer will produce a notice briefing Firms of the Council's requirements.
- (3) The Procuring Officer will advertise in accordance with paragraph 5.4 above for Firms to submit an expression of interest in response to the briefing notice by a specified date.
- (4) The Procuring Officer can also contact Firms directly and invite them to submit an expression of interest.
- (5) All Firms expressing interest will be provided with a Pre-Qualifying Questionnaire (PQQ) prepared by the Procuring Officer. The Procuring Officer shall also prepare the PQQ assessment criteria.
- (6) All PQQs will be reviewed by the Procuring Officer who will make his shortlist recommendations to the Council.
- (7) The Procuring Officer will provide a Tender document to the number of Firms in accordance with paragraph 5.4 above, or fewer (subject to the approval of the relevant Board) if insufficient respondees match the assessment criteria of the PQQ.
- (8) All Tenders will be received and opened in accordance with paragraph 6.7 below
- (9) All Tenders will be assessed in line with paragraph 7 below.
- (10) All responding Firms will be duly notified of the outcome of the tender process.

- (11) Firms will be given a seven day notice of the intention to award the Contract in case they wish to clarify their response prior to its award.

### **6.5.3 Open Tendering Procedure**

This Contract Standing Order applies to contracts with an estimated value of Level C or above, if no appropriate Approved List exists or if the relevant Senior Officer considers that paragraphs 6.5.1 and 6.5.2 above are inappropriate. The Open Tendering Procedure operates as follows:

- (1) The Procuring Officer will obtain the relevant authority to proceed with the tender.
- (2) The Procuring Officer will produce a notice briefing Firms of the Council's requirements.
- (3) The Procuring Officer will advertise in accordance with paragraph 5.4 above for Firms to submit an expression of interest in response to the briefing notice by a specified date.
- (4) The Procuring Officer can also contact Firms directly and invite them to submit an expression of interest.
- (5) From those Firms that express an interest in response to the briefing, the Procuring Officer will invite at least the minimum number of Firms (as set out in paragraph 5.4 above) to submit a tender.
- (6) All Tenders will be received and opened in accordance with paragraph 6.7 below
- (7) All Tenders will be assessed in line with paragraph 7 below.
- (8) All responding Firms will be duly notified of the outcome of the tender process.
- (9) Firms will be given a seven day notice of the intention to award the Contract in case they wish to clarify their response prior to its award

### **6.5.4 Negotiated Tendering Procedure**

This Contract Standing Order applies to contracts with an estimated value of Level C or above if the relevant Senior Officer considers that paragraphs 6.5.1, 6.5.2, and 6.5.3 above are inappropriate.

The appropriate Senior Officer, acting with the authority of the Council or under delegated powers, may invite or authorise the invitation of tenders from Firms by way of a negotiated procedure, but this can only be used where the appropriate Senior Officer can show that either:-

- (1) one of the procedures set out in paragraphs 6.5.1, 6.5.2, and 6.5.3 above has been used and resulted in the submission of unacceptable or irregular tenders or that no tenders or no appropriate tenders were received; or
- (2) exceptionally where the nature of the procurement or risks involved (including reacting to emergencies) does not permit prior overall pricing; or
- (3) the nature of the procurement is such that a precise specification cannot be drawn up; or

- (4) a design contest is appropriate to the scheme; or
- (5) an existing and active Contract meets all of the specification requirements, but it will exceed delegated authorities in terms of extending the Contract and that no financial benefit is likely from tendering the incremental work.

The Negotiated Tendering Procedure operates as follows:

- (1) The Procuring Officer will obtain the relevant authority to proceed with the tender.
- (2) The Procuring Officer will research capable Firms and contact them to assess their interest in the Contract.
- (3) The Procuring Officer will prepare a recommended shortlist and evaluation criteria. In the event that the shortlist contains only one Firm, approval must be sought from the relevant Board.
- (4) The Procuring Officer will provide a requirements document for discussion with the shortlisted firms. The requirements document will be as explicit as the Procuring Officer can reasonably achieve.
- (5) The Procuring Officer will brief the approved shortlist of Firms and issue them with the requirements document, and the evaluation criteria.
- (6) On the basis of initial responses to the requirements document, the procuring Officer will identify a preferred supplier and advise that supplier that it will be invited to conduct contractual negotiations.
- (7) The Procuring Officer will obtain authority to proceed to contractual negotiations in line with Delegated Authority.
- (8) All shortlisted Firms will be duly notified of the outcome of the tender process.

### **6.5.5 European Tendering Procedure**

This Contract Standing Order applies to contracts with an estimated value that exceeds the OJEU threshold.

The OJEU Tendering Procedures support Partnering and collaborative procurement (via Framework Agreements). The Procuring Officer will ensure that any such Framework Agreements relating to collaborative procurement are properly constituted under OJEU requirements.

Specific requirements of each of the OJEU Tendering Procedures will override the procedures in paragraphs 6.5.1, 6.5.2, 6.5.3, and 6.5.4 above, where there are OJEU equivalent procedures that determine notices, advertising, etc. as laid out in Appendix 5.

The Competitive Dialogue Procedure under OJEU will only be relevant in exceptional circumstances, and will therefore require specific Council authority before it is used.

### **6.6 Land Transactions**

This Contract Standing Order applies where there is a land transaction. With the exception of paragraphs 1 and 2 above, none of the Council's other Contract Standing Orders apply to land transactions, unless otherwise stated in this paragraph.

### **6.6.1 Definitions**

“Land transaction” means the acquisition or disposal of, or other dealing with land whether or not buildings, plant and equipment, fixtures and fittings, or other assets are included in that transaction. A transaction concerning only plant and equipment, fixtures and fittings, or other assets is not a land transaction. The grant of temporary licence to occupy is not a land transaction.

“Major disposal” means a land transaction, other than a disposal under the Right to Buy provisions in the Housing Act 1985 which consists of either a disposal of the freehold where the consideration exceeds £52,000, or the grant of a lease where the rent exceeds £21,000 per annum or where the premium exceeds £52,000.

“The property procedures” means the procedures adopted by the Solicitor to the Council from time to time, in consultation with the Director of Resources.

“Best consideration” means the legal obligation upon the Council to achieve a consideration which is the best that can reasonably be obtained.

### **6.6.2 Approval of Major Disposals**

The method of each major disposal must be approved by the Solicitor to the Council or the Resources Board as appropriate. When determining such matters the Solicitor or Board shall:

- (1) specify the land to be disposed of;
- (2) confirm that the land has been declared surplus to the Council’s requirements;
- (3) advise upon the proposed method of disposal and set out the reasons for selecting that method;
- (4) in matters where the Council must achieve best consideration, confirm that the proposed method of disposal which has been selected, is most likely to achieve this; and
- (5) in matters where it is proposed that the disposal should be for less than best consideration, give reasons for and against seeking best consideration and, specify the relevant legal powers of the Council to accept less than best consideration.

The principal terms of major disposals (except where the approved method of disposal is by auction) must be approved by the Council on the recommendation of the Resources Board. When determining such matters, the Board shall ensure, after considering advice from the Council’s Valuer, either that the consideration agreed represents best consideration, or following advice from the Solicitor to the Council that the Council has the relevant legal powers to accept less than best consideration.

In major disposals where the approved method of disposal is the inviting of formal tenders or informal offers, the disposal must be advertised in at least one local, national, international or specialist newspaper or publication, as determined by the Solicitor to the Council, after consultation with the Council’s Valuer. Tenders shall be submitted in accordance with the procedures (with the necessary amendments) set out in paragraph 6.7 below.

### **6.6.3 Dealing with formal tenders and informal offers**

The receipt and opening of formal tenders and informal offers will be in accordance with the property procedures. Tenders and offers shall be opened at one time in the presence of either the Leader of the Council or one of the Deputy Leaders and the Solicitor to the Council or his/her representative. The names of tenderers and/or offerors, and the amounts of tenders/offers shall be recorded in a register kept by the Assistant Chief Executive. Persons present at the opening of tenders/offers shall record their presence by signing the register against the specified details. Alterations/errors in tenders/offers and late or otherwise invalid tenders/offers shall be dealt with in consultation with the Solicitor to the Council.

### **6.6.4 Disposals by Auction**

In disposals where the approved method of disposal is by auction, the auction shall be conducted by the Council's Valuer, if he/she is a practising Auctioneer. Where this is not the case, at least two practising auctioneers must be invited to provide a written quotation as to commission and additional costs, and the lowest quote must be selected by the Solicitor to the Council.

A "reserve price" must be set by the Solicitor to the Council, in consultation with the Council's Valuer or selected auctioneer. The reserve price must be disclosed only to the auctioneer and the Council's legal officer attending the auction.

### **6.6.5 Approval of Land Transactions other than major disposals**

The principal terms of land transactions other than major disposals (except where the method of disposal is by way of auction) must be approved by the Solicitor to the Council or the Resources Board, as appropriate. When determining such matters, the Solicitor or Board shall consider the proposals in an agreed format confirming either that the consideration agreed represents best consideration, or following consultation with the Solicitor to the Council that the Council has the relevant powers to accept less than best consideration.

### **6.6.6 Application of the Property Procedures**

All land transactions must be conducted in accordance with the property procedures.

### **6.6.7 Formalities**

All contracts and other documentation entered into pursuant to all land transactions shall be in writing, and shall be signed or sealed, as appropriate.

### **6.6.8 Acceptance of Tenders and Offers**

Decisions on the acceptance of tenders and offers for land transactions will be taken in accordance with paragraph 7.5 below.

## **6.7 Submission, Receipt, Opening and Registration of Tenders and Quotations**

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

Every written quotation obtained for each proposed contract must be held by the appropriate Senior Officer and full details of all the quotations received shall be recorded by the Senior Officer and held on the relevant file.

### 6.7.2 Submission of Tenders for Works, Goods and Services

Every invitation to tender must state:

#### **IMPORTANT – PLEASE NOTE**

Tenders must be returned to the Council in one of the following ways:

EITHER

(a) By sending the tender, by post, to the Assistant Chief Executive in the special envelope provided,

OR

(b) By taking the tender in the special envelope provided and handing it to a Member of staff at the Customer Services Reception Desk which is on the ground floor of the Council House, South Street, Atherstone.

OR

(c) By submitting it electronically to the advised e-mail address or website link.

Please note that tenders must arrive on or before 12 NOON on (the specified date) and that tenders left or sent otherwise than in accordance with the above requirements will be disregarded.

The special envelope provided for the return of Tenders must be sealed. This envelope must not have been opened and re-sealed and it must not bear the name or mark of the sender. Any Tender submitted which does not comply with this requirement will not be considered, and any tender not forwarded in the special envelope will be disregarded.

Any Tender submitted electronically will be held in a secure location on the Council's computer network or any other secure electronic location designated by the Council until the deadline for receiving Tenders is past.

The Council does not bind itself to accept the lowest or any tender.

The Council's Terms and Conditions form part of the Tender documentation and will apply to any Firm awarded this Contract.

Every tender envelope received shall be numbered and marked with the time and date of its receipt and these details shall be recorded in a register kept on behalf of the Assistant Chief Executive.

The unopened tenders shall be kept in the custody of the Assistant Chief Executive until the time and date agreed for their opening.

Every Tender received electronically will be recorded upon opening the secure folder in a register kept on behalf of the Assistant Chief Executive.

Any late Tenders will be opened by or on behalf of the Assistant Chief Executive and promptly returned to the sender with an explanation that it could not be considered because of its late receipt. Any late Tenders submitted electronically will be rejected on receipt.

### 6.7.3 Opening and Registration of Tenders for Works, Goods and Services

If tenders are invited under paragraphs 6.5.1, 6.5.2, 6.5.3, 6.5.4, or 6.5.5 above, they shall be opened at one time in the presence of either the Leader of the Council or one of the Deputy Leaders and the Assistant Chief Executive or his/her representative.

The Assistant Chief Executive or his/her representative must at the time the tenders are opened record:

- (1) the type of goods or materials to be supplied or disposed of, or the work or services to be carried out;
- (2) the name of each Firm submitting a tender;
- (3) the date and time of receipt of each tender as recorded on the envelope;
- (4) the amount of each tender where appropriate;
- (5) the date of the opening of a tender;
- (6) the signatures of all persons present at the opening of each tender;
- (7) the reason for any disqualification of any tender;
- (8) the name of each Firm invited to tender but who did not submit a tender;
- (9) where possible the position by competitive order of value of tenders received;
- (10) The Assistant Chief Executive or his/her representative shall ensure that each page of the tender document which contains prices is initialled by each person present.

#### **6.7.4 Alterations to Tenders and Post Tender Negotiations**

No alteration of any tender will be allowed after the date and time specified for the receipt of tenders, EXCEPT that:

- (1) Where examination of tenders reveals arithmetical errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer is to be given a period of two working days (or such longer period as the Procuring Officer considers reasonable in the circumstances) to confirm the lower of the original or the arithmetically correct figure, or to withdraw the tender. If the tenderer withdraws, the next tender in competitive order is to be examined and dealt with in the same way. Any exceptions to this procedure may be authorised by the Council or by a Board to which the power of making contracts has been delegated;
- (2) Where the lowest tender received exceeds by more than 10% the estimate given under paragraph 6.1 above the appropriate Senior Officer or outside consultant employed in connection with the proposed contract may contact the lowest tenderer and, if appropriate, any other tenderers for more favourable prices or terms on the basis of changes to the Bill of Quantities or Specification or any other means of reducing the tender price, provided that, where two or more tenderers are involved:-
  - a. there is no disclosure as to which tender is currently the lower or the margin(s) involved;
  - b. The tenderers taking part in this process are required to submit their revised prices or terms to the Council in the manner set out in paragraph 6.7.1 above. The revised offers will be opened in accordance with paragraph 6.7.2 above.
- (3) Should this exercise not produce a tender within the cost limit referred to in subparagraph (b) above, the procedure will be terminated and a report made to the appropriate Board of the Council.

## 6.8 Advice to Tenderers

Tenderers should be advised within the Tender Document of the Council's requirements not only in terms of specification of goods or services required, but also with regards to compliance in accordance with paragraph 4.2 above, as the Senior Officer deems appropriate for the Tender.

## 7 Selection

### 7.1 Principles of awarding a Contract

For procurement up to £5,000 (Level A), Contracts will be made via the Council's own purchase Order system to the Council's specific Purchase Order terms and conditions. Such Orders will be placed on the basis of lowest price against a given specification in terms of goods or services, quality and timeliness.

For procurement over Level (A), Contracts will be made based upon a Most Economically Advantageous Tender (MEAT) basis.

- (1) Where the Contract value is at or below Level (B), the assessment is the responsibility of the Procuring Officer and will be ratified by their Senior Officer.
- (2) Where the Contract value is at or above Level (C), the assessment of the contract is the responsibility of the relevant Senior Officer.

### 7.2 Evaluation Criteria

Prior to receiving any Quotations or Tenders, the Procuring Officer will establish the Evaluation Criteria and their relative weightings for agreement with their Senior Officer. These will be published to those Firms invited to tender. Unless the Senior Officer decides that any of the following is inappropriate to the particular contract, the evaluation criteria must include:

Criteria	Typical Weighting	Notes
Cost	Up to 70%	Costs will be assessed for total Contract life based upon the lowest price received.
Delivery	Up to 20%	Delivery will be assessed in terms of warranties, guarantees, and penalties against delivery to the Council's schedule.
Quality	Up to 70%	Quality will be subjectively assessed in terms of performance against specification by relevant and competent Officers
Local Content	Up to 10%	Local Content will be judged based upon the number of full time employees either working or living within the Borough.
Environmental Impact	Up to 10%	A subjective assessment of the possible environmental consequences of the goods and services tendered.
Compliance	Mandatory	Only Firms that can demonstrate Compliance in accordance with Contract Standing Orders will be considered, unless there are no fully compliant Firms responding, in which case the Procuring Officer will judge relative compliance amongst the Firms.
E Procurement	Up to 15%	For Firms that can fully comply with the Council's e-procurement strategy.

### 7.3 Accepting Quotations for Works, Goods and Services

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

<b>Circumstance</b>	<b>Acceptance by</b>
(a) Lowest or most economically advantageous quotation, provided that it represents value for money.	Appropriate Senior Officer
(b) A quotation other than the lowest or most economically advantageous received or in any other circumstances	Appropriate Director

### 7.4 Accepting Tenders for Works, Goods and Services

- (1) Decisions on the acceptance of tenders for works, goods or services regardless of the value of the contract will be taken as follows:

<b>Circumstance</b>	<b>Acceptance by</b>
(a) Lowest or most economically advantageous tender, provided that it represents value for money and does not exceed by more than 10% the estimate given under paragraph 6.1(2) above.	The Chief Executive (or in his absence the relevant Director) after consultation with the Leader of the Council or one of the Deputy Leaders, provided that the Chief Executive or relevant Director may, at his or her sole discretion, refer any decision on acceptance of a tender to the appropriate Board.
(b) A tender other than the lowest or most economically advantageous tender received, provided that it represents value for money and a written report has been submitted to the appropriate Board by the relevant Senior Officer with the Evaluation Criteria and assessments duly completed.	Appropriate Board
(c) Any other circumstances	Appropriate Board

- (2) Notwithstanding paragraph 7.4(1) above, the appropriate Senior Officer must, prior to the Council entering into any contract, ensure that the Director of Resources has approved the financial standing of the Firm to whom it is proposed to award the contract, in accordance with Financial Regulations, and where the contract value exceeds Level C for a contract to be awarded under paragraphs 6.5.2, 6.5.3, 6.5.4 or 6.5.5 above, the Director of Resources has carried out a detailed financial appraisal of the proposed contractor.

### 7.5 Accepting Tenders for the Disposal of Land, Property and other Marketable Assets offered under Contract Standing Order No 6.6

Decisions on the acceptance of tenders for the disposal of land, property and other marketable assets will be taken as follows:-

<b>Circumstance</b>	<b>Acceptance by</b>
(a) The highest tender, provided that it is considered to be in the Council's interests, after taking professional advice.	The Chief Executive, (or in his absence the Solicitor to the Council) after consultation with the Leader of the Council or one of the Deputy Leaders
(b) A tender other than the highest received, provided that it is considered to be in the Council's interests; is in accordance with statutory requirements; and a written report has been submitted to the appropriate Board by the relevant Senior Officer.	Appropriate Board
Any other circumstances	Appropriate Board

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

This Contract Standing Order applies where a sub-contractor or a supplier is to be nominated to a main contractor.

- (1) Where it is not reasonably practicable to obtain competitive tenders, the appropriate Senior Officer may nominate the Sub-Contractor or supplier but, where competitive tenders are available, the provisions of paragraphs 7.6(2) to 7.6(5) below shall apply.
- (2) Where the estimated amount of the sub-contract or the estimated value of goods or materials to be supplied by a nominated supplier is at or above Level C, then tenders must be invited in accordance with paragraphs 6.5.1, 6.5.2, 6.5.3, 6.5.4 or 6.5.5 above.
- (3) Where the estimated amount of the sub-contract or the estimated value of goods or materials to be supplied by a nominated supplier is at or below level B then quotations must be invited in accordance with paragraph No 5.4 above.
- (4) The terms of any invitation for nominated sub-contractors or suppliers must require that, if selected, the Firms would be willing to enter into:-
  - a. A contract with the main contractor on terms which indemnify the main contractor against the main contractor's own obligations under the main contract in relation to the work and goods or materials included in the subcontract; and
  - b. An agreement to indemnify the Council in such terms as may be prescribed.
- (5) The provisions of Contract Standing Order 6 relating to the submission of tenders; their opening and registration; late tenders; alterations to tenders; and tender acceptance shall apply to this Contract Standing Order.

## **8 Contract and Terms**

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

- (1) be satisfied about the technical capability of such Firm; and
- (2) ensure that all evaluation criteria have been determined in advance; and
- (3) Ensure that these Contract Standing Orders have been complied with, and that the proposed contract represents value for money.

## 8.1 Non-Council Contracts

The Council acknowledges that it may be bound by the terms of the following types of Contracts, if the Senior Officer determines that the Contract and the Firm meet the needs of the Council and can provide an efficient use of the Council's resources through reducing tendering activity:

- (1) ICE (Institute of Civil Engineers) and JCT (Joint Contracts Tribunal) Contracts and Agreements.
  - a. Where ICE Tenders are used in connection with the execution of Works examination of tenders will be carried out in accordance with Part 5 of Guidance on the Preparation, Submission and Consideration of Tenders for Civil Engineering Contracts produced by the ICE Conditions of Contracts Standing Joint Committee as in force for the time being. In such cases, Contracts must be awarded by the employer rather than the Client, who in the case of the Council, is the relevant Director or Assistant Director.
  - b. Where JCT tenders are used in connection with the execution of Works, examination of tenders will be carried out in accordance with the principles of the Code of Procedure for Single Stage Selective Tendering published by the National Joint Consultative Committee for Building as in force for the time being.
- (2) OGC (Office of Government Commerce) Contracts and Agreements.
- (3) Consortia such as ESPO (Eastern Shires Purchasing Organisation) Contracts and Agreements.
- (4) Affiliated Councils for Procurement.

It is the responsibility of the Senior Officer to ensure that such Contract terms are appropriate and acceptable to the Council, and to record that. If necessary, it is the responsibility of the Senior Officer to negotiate modifications to the Contract where possible to properly represent the requirements of the Council.

It is the responsibility of the Solicitor to the Council to accept that such a Contract is appropriate to the Council.

## 8.2 Council Written Contracts

- (1) Unless the Solicitor to the Council decides otherwise, every contract must be in writing and every contract with a value of Level C or above must be in a form prepared or approved by the Solicitor to the Council and must be under seal.
- (2) Where a contract is valued at Level B or less, the works, goods or services to be supplied will be dealt with either by an official order signed by the appropriate Senior Officer or be evidenced by a note or memorandum signed by the contractor containing the material terms of the contract.

### 8.3 Contents of Contracts

The appropriate Senior Officer must ensure that:

- (1) Every contract must set out:
  - a. the work, goods, services, materials, matters or things to be carried out or supplied;
  - b. the price to be paid and/or the amounts and frequency or the method of calculation of contract payments, including retentions if the Senior Officer accepts these, with a statement of discounts or other deductions;
  - c. the means of Contract administration, including where feasible e-ordering and e-invoicing to improve the Council's and the Firm's own efficiencies;
  - d. the time(s) within which the contract is to be performed;
  - e. any specific issues regarding Consequential Losses or Liquidated Damages in the event of the Termination of the Contract;
  - f. such other matters referred to in this Contract Standing Order as are required to be included.
  
- (2) Every contract with an estimated value of Level C or above must state that if the Firm fails to comply with its contractual obligations in whole or in part, the Council may:-
  - a. cancel all or part of the contract;
  - b. complete the contract;
  - c. recover from the Firm any additional costs in completing the contract;
  - d. Take other legal action against the Firm.
  
- (3) Unless the Solicitor to the Council and the appropriate Senior Officer consider it to be unnecessary or impractical, every contract must provide that:
  - a. liquidated damages must be paid by the Firm if it fails to comply with the terms of the contract;
  - b. where under any contract, one or more sums of money are to be received by the Council, the Firm responsible for the payment of such sum or sums must pay interest at the rate stated in the contract from the date when payment is due until the date when payment is received;
  - c. in the performance of the contract, the Firm:
    - i. must not discriminate on the grounds of race contrary to statutory requirements;
    - ii. must provide any information reasonably requested relating to the performance of the contract to ensure that the Council meets its statutory obligations under Section 71 of the Race Relations Act 1976;

- d. in the performance of the contract, the Firm must comply with the requirements of the Health and Safety at Work etc Act 1974 and of any other relevant Acts, Regulations, Orders or Rules of Law pertaining to health and safety;
  - i. For the purposes of Construction Design and Management regulations the council must be satisfied as to the competence of the Planning Supervisor and Principal Contractor.
  - ii. Suppliers shall be responsible for the observance of this Contract Standing Order by sub contractors employed in the carrying out of any works contract for the Council and shall if required notify the Council of the names and addresses of all such sub contractors.
  - iii. If an employee of the Council shall have a reasonable ground for believing that the requirements of this Contract Standing Order are not being observed he or any consultant on his behalf shall be entitled to require proof of compliance with any relevant health and safety legislation.
- e. The Firm must not sub-contract the works or any part of the works, without the prior written consent of the appropriate Senior Officer;
- f. Without prejudice, and subject to any other condition of the contract, no sub-letting by the Firm will relieve the Firm of its liability to the Council for the proper performance of the contract;
- g. The Firm is responsible to the Council for the proper performance and observance by all sub-contractors of all the Firm's obligations under the contract as if references in the contract to "the Contractor" were references to the subcontractors. Failure or neglect by a sub-contractor is deemed to be failure or neglect by the Firm;
- h. The Firm is prohibited from transferring or assigning directly or indirectly to any person or persons whatsoever any part of its contract, without the prior consent of the appropriate Senior Officer (following consultation with the Solicitor to the Council and the Director of Resources).
- i. All goods, materials, services or work must comply with any appropriate European Union Specification or Code of Practice or British Standard Code of Practice or European Union equivalents in force at the date of tender/quotation;
- j. The Council is entitled to cancel the contract and to recover from the Firm the amount of any loss resulting from such cancellation, if the Firm or its employees or agents (with or without its knowledge):-
  - i. does anything improper to influence the Council to give the Firm any contract; or
  - ii. commits an offence under the Prevention of Corruption Acts 1889 to 1916 or under Section 117(2) of the Local Government Act 1972;
- k. Whenever under the contract any sum of money is recoverable from or payable by the Firm, this sum may be deducted from any sum due or which at

any time may become due to the Firm under this or any other contract with the Council. Exercise by the Council of its rights under this clause is without prejudice to any other rights or remedies available to the Council under the contract.

- l. The Firm must provide evidence of adequate insurance to cover both Public and Employers' Liability to the satisfaction of the Director of Resources.
- m. The Firm provides adequate security for carrying out the contract.
- n. The Firm complies with the Council's requirements with regards to its Environmental Policy, its Data Protection Policy, and Freedom of Information Policy as appropriate to the Contract in line with paragraph 4.2 above.

#### **8.4 Variances to Terms and Conditions**

Any variations to the Council's standard terms and conditions of contract submitted by Firms shall not be accepted without advice from the Solicitor to the Council.

Proposed payment arrangements under a contract must be discussed with and agreed by the Director of Resources

#### **8.5 Contract Disputes**

In the event of any question arising as to whether the requirements of this paragraph are being observed the question shall, if not otherwise disposed of, be referred to an arbitrator chosen by the Solicitor to the Council. This paragraph shall not apply to contracts falling within paragraph 8.1 above.

The Council will adopt the following as 'good practice' for Dispute Arbitration within a Contract. The principle will be to establish a mutually acceptable resolution of any dispute to maintain good working relations and avoid lengthy and costly delays for both parties.

- (1) The Council will reserve the right not to pay any invoice where there is a dispute with the supplier over the provision of the goods and services.
- (2) The Council will not unreasonably withhold payment on consolidated invoices, other than the amount pertaining to the dispute.
- (3) The Council will include within appropriate Contracts a Dispute Resolution procedure as follows:
  - a. The Procuring Officer will identify levels of escalation for any Dispute to include identified positions in both the Council and the Supplier, and the criteria for escalation.
    - i. The final level of escalation is to Director level in the Council.
  - b. Both parties will agree that the relevant persons will attend a Dispute Resolution meeting within 14 days of escalation.
  - c. Both parties will agree to abide by any agreement reached at such a meeting.

- d. If agreement is not reached, then both parties will escalate the dispute within the established levels as far as is necessary.
  - e. If agreement cannot be reached even at Director level, then both parties will agree to an independent procedure such as mediation or adjudication by a third party, ahead of progressing to legal action.
- (4) Suppliers who are involved in a dispute will continue to offer its services to the Council without compromise.
  - (5) Suppliers involved in legal action with the Council will not be considered for any ongoing tenders until that action is concluded.

## **9 Using Contracts**

### **9.1 Placing Orders against Existing Contracts**

Within approved budgets and in accordance within budgetary limits where applicable, Authorised Officers or budget holders may place orders against any Contracts which have been entered into by the Council.

Where Contracts are managed on a day-to-day basis within the e-procurement systems of the Council, all purchase orders will be placed electronically on suppliers.

Where in exceptional circumstances Contracts are managed on a day-to-day basis outside the e-procurement systems of the Council, orders may be placed as follows:

- (1) By Council purchase order.
- (2) By a Procurement Card if issued by the Council.
- (3) By a Works Order, based upon the procedures agreed within the Contract tendering process.
- (4) By a Call off Order, drawing down on the total value of the contract, against an agreed schedule of amounts.

### **9.2 Authorising Payment against Existing Contracts**

Within approved budgets and in accordance with budgetary limits where applicable, Authorised Officers or budget holders may authorise payments of invoices raised by a Supplier against any Contracts which have been entered into by the Council, on the following conditions:

- (1) That the Council has a duly authorised Goods Receipt Note to match against the invoice; or
- (2) That the Procuring Officer has authorised payment against the satisfactory delivery of a service or schedule of services; or
- (3) That it represents an agreed stage payment, provided that the Procuring Officer can determine and demonstrate that the stage has been reached; or
- (4) That it is a retained payment; or
- (5) That a Senior Officer authorises payment.

### **9.3 Variations to Contracts**

- (1) All variations must be in the form of written instruction to the contractor. The likely cost effect of each variation should be assessed prior to the issue of the instruction.
  - a. In cases where this would cause serious disruption to the contract, or where immediate action is necessary to prevent danger or damage, the instruction may be issued without prior costing, but in such cases this costing must be completed within 7 working days of the instruction being issued.
- (2) Where a variation to a contract is such that without it the contract cannot be properly completed in accordance with the original design, or with the performance standards required by the original design, then it is an essential variation.
- (3) The appropriate Senior Officer may make any essential variation to the contract which is considered necessary. The cost should be set against contingencies or accrued savings elsewhere in the contract. Where an essential variation is likely to cause the authorised amount of the contract to be exceeded, the Officer shall either:
  - a. seek the necessary approval set out in Financial Regulations prior to issuing the variation, if time permits; or
  - b. Notify the Senior Officer and obtain approval set out in Financial Regulations after issuing the variation, including reporting on the reasons why time did not permit seeking of prior approval.
- (4) Non-essential variations are those which fall outside the definition in paragraph 9.3(3) above. Non-essential variations must not be authorised without the appropriate Senior Officer consulting with and considering the comments of the Director of Resources and also seeking the necessary approvals set out in Financial Regulations.
- (5) Any variation which results or is likely to result in the contract price being exceeded by more than 10% must be reported to the relevant Board.

### **9.4 Adjustments and Extensions to Contracts**

Where the scope or timing of any Contract changes for reasons beyond the control of the Procuring Officer, a Contract may be extended or adjusted in line with the appropriate Delegated Authority. Such discretion is to recognise the efficiency in procurement in situations where either identical goods or services are required for an additional area, or when budgetary issues pull forward or delay a particular programme of expenditure.

### **9.5 Emergency Orders**

Where an emergency demands a response to a situation outside the practical timescales of these Contract Standing Orders, the Procuring Officer is authorised to set aside requirements for tendering and competition, working if at all possible with an existing Supplier.

### **STANDARD CONTRACT TERMS AND CONDITIONS**

#### **1 DEFINITIONS AND INTERPRETATION**

1.1 “Authorised Officer” means the Council’s officer set out in the Contract or where not so specified the contact name on the Order.

“Completion Date” means the completion date set out in the Contract or where not so specified the Delivery Date.

“Contract” means the agreement to which these Terms apply.

“Contract Period” means from the Start Date until the Completion Date

“Contract Price” means the price set out in the Contract or where not so specified the price on the Order.

“Council” means North Warwickshire Borough Council.

“Delivery Date” means the delivery date set out in the Contract or where not so specified the date required on the Order.

“Goods” means the items (if any) which are subject to the Contract.

“Guarantee Period” means the guarantee period as set out in the Contract or where not so specified for a period of 12 months from the Delivery Date or Completion Date whichever is later.

“Order” means an order on the Council’s printed form or by telephone (quoting a Council Order number) or in any standard electronic form that the Council may use from time to time.

“Payment Date” means the payment details set out in the Contract or where not so specified the Completion Date.

“Services” mean the jobs or tasks (if any) which are the subject of the Contract.

“Site” means the site or sites set out in the Contract or where not so specified the delivery address on the Order.

“Start Date” means the start date set out in the Contract or where not so specified the date the Supplier received the Order.

“Supplier” means the person, Firm or company with whom the Council makes the Contract.

“Supply” means the Goods and or Services as described in the Contract.

“Terms” means these contract terms.

1.2 The headings to the Terms shall not affect their interpretation. The singular includes the plural; one gender includes all others.

1.3 Any reference to statutory provisions shall include a reference to the statute or statutory provisions as from time to time amended, extended, modified or re-enacted.

#### **2 OFFER AND ACCEPTANCE**

2.1 Subject to clause 2.2 below, the Contract shall comprise these Terms, the Order (if any) and any specific terms, conditions and specifications set out in the Order or which are expressly agreed in writing in any other duly signed contractual documentation. Such specific terms, conditions and specifications may expressly exclude, vary or supplement any of these Terms. In the event of any conflict between such specific terms, conditions and specifications and these Terms the former shall prevail.

2.2 These terms shall prevail over the Suppliers terms and the Council shall not be bound by any standard terms provided by the supplier unless the Supplier specifically states in writing separately from such terms that it intends such terms to apply and the Council expressly acknowledges in writing that such terms will apply.

### **3 QUALITY AND DESCRIPTION**

3.1 The Supply shall be to the reasonable satisfaction of the Authorised Officer and shall without limitation conform with and fulfil in all respects:-

- the Contract;
- the requirements of any relevant UK or EC statute, order, regulation, directives, standard, code of practice or bye-law from time to time in force which is relevant to the Supply;
- any recommendation or representation made by the Supplier;
- be of sound materials and workmanship;
- be fit for purpose for which they are supplied under the Contract and
- be of high professional standards and carried out with all reasonable care and skill which might reasonably be expected within the relevant industry or sector.

3.2 Unless otherwise agreed in writing, neither performance nor functionality of any part of the Supply will be impeded by entry into the European monetary union.

3.3 Unless specifically agreed otherwise, all materials used and Goods are to be new.

### **4 THE CONTRACT PRICE AND INVOICING**

4.1 The Payment Date defines when the Contract Price is payable. The Council shall make payment provided the Supply complies with the Contract within 30 days after receipt of a correct invoice submitted on or after a Payment Date.

4.2 The Contract Price shall be net of Value Added Tax.

4.3 The Council shall be entitled to set off against any invoice any amount due from the Supplier under the Contract or under any other arrangement.

### **5 DELIVERY AND TIME FOR PERFORMANCE**

5.1 Time shall be of the essence. The Authorised Officer must be notified and his prior written consent obtained to any extension of time.

5.2 Access to Council premises, facilities or storage by the Supplier shall comply with the reasonable requirements of the Council and shall be at the Supplier's risk.

5.3 If either party is unable to make or accept the Supply, because of the following;

- strike, lockout by employees, war or civil commotion
- cessation or serious interruption of land, sea or air communications or power supplies or
- exceptionally adverse weather or fire
- Force majeure.

It shall immediately notify the other party and then the disabled party may decline to make or accept the Supply. The Council shall notify the Supplier within 30 days of the end of that period whether it requires the Supply to be recommenced, varied or cancelled (without further liability to either party). Where the Supply is recommenced the Contract shall be varied to extend the time for completion or delivery of the Supply by the period of disability.

5.4 At the completion of the Supply the Supplier shall remove all materials from the Site (unless otherwise instructed) and permanently reinstate any damaged areas or surfaces and leave the Site in a clean condition ready for occupation.

## **6 PROPERTY RISK AND ACCEPTANCE**

6.1 Without prejudice to any of the rights or remedies of the Council (including those under Clause 8), property in any Goods shall pass to the Council on actual delivery or where the Goods are to be subject to testing when the Authorised Officer notifies acceptance in writing.

6.2 The Council shall not be deemed to have accepted any part of the Goods until after the Council has actually inspected the Goods and ascertained they are in accordance with the Contract. The Council may reject Goods which are not in accordance with the Contract within a reasonable time after such inspection.

## **7 DESPATCH OF GOODS AND DAMAGE IN TRANSIT**

7.1 The Supplier shall free of charge and as quickly as possible either repair or replace (as the Council shall elect) goods which fail to arrive or arrive damaged.

## **8 INSPECTION AND REJECTION**

8.1 The Supplier shall assist the Council or his authorised representatives (free of charge) to make any inspections or tests the Council may reasonably require of the Supply at any time prior to acceptance

8.2 The Council may suspend the Supply in whole or in part without paying compensation if the Authorised Officer is reasonably of the opinion that the Supplier is in breach of Clause 11.

8.3 The Council may reject the Supply in whole or in part before acceptance if it is not completely in accordance with the Contract or becomes so during any Guarantee Period (including without limitation any slight or minor variation) and in such circumstances may, without prejudice to other rights or remedies: -

- have the Supply repaired, re-done or replaced by the Supplier with a supply which complies in all respects with the requirements of the Contract
- require a refund from the Supplier
- make a reasonable deduction from the Contract Price determined by the Authorised Officer.

## **9 LABELLING AND PACKAGING**

9.1 The Supplier shall ensure that all prices, quantities, units of measure and the Order number are quoted on all transaction documentation and comply in all respects with those stated in the Contract.

9.2 The contents shall be clearly marked. All containers of hazardous goods (and all relevant documents) shall bear prominent and adequate warnings. Product Data Sheets as required by the Control of Substances Hazardous to Health Regulations 1988 and the Chemicals (Hazard Information and Packaging) Regulations 1993 must be provided.

9.3 All packaging materials will be considered non-returnable, unless the Supplier advises the Council otherwise in accordance with its environmental obligations.

## **10 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY**

10.1 The Supply shall not infringe the intellectual property rights of any third party.

10.2 All rights (including without limitation ownership and copyright) in any specifications, information, instructions, plans, drawings, patterns, models, designs or other material furnished to or made available to the Supplier by the Council or obtained by the Supplier in connection with the Contract shall remain vested solely in the Council and shall be kept confidential.

10.3 Where the Supplier has access to information about people, it shall ensure that in making the Supply, the provisions of the Data Protection Act 1998 are observed (and also Councils' data protection requirements notified to the Supplier).

10.4 Nothing from a Supplier shall be considered confidential under the Freedom of Information Act 2000.

10.5 The intellectual property rights (including without limitation copyright) in any thing arising out of the Supply shall vest in the Council

10.6 This clause shall apply both during the Contract and after its termination.

## **11 HEALTH AND SAFETY**

11.1 Without prejudice to the generality of Clause 3.1 the Supplier in making the Supply shall have full regard to safety of persons who may be affected in any way and shall comply with the requirements of the Health and Safety at Work Act 1974 and its subordinate regulatory framework, and of any other Acts pertaining to the health and safety of persons.

11.2 The Supplier shall conduct all necessary tests and examinations prior to delivery of the Supply to ensure that the Supply is designed, constructed and delivered so as to be safe and without risk to the health or safety of persons using them. The Supplier shall give the Council adequate information about the use for which the Supply has been designed and has been tested and about any conditions necessary to ensure that when put to use the Supply will be safe and without risk to health.

11.3 Throughout the progress of any Supply, the Supplier shall keep the Site in an orderly state and shall provide and maintain at its own costs all lights, guards, fencing and warning signs for the protection of the Supply and the safety and convenience of the public and others.

## **12 RACIAL DISCRIMINATION, OMBUDSMAN INVESTIGATIONS AND HUMAN RIGHTS**

12.1 The Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of Race Relations Act 1976, Sex Discrimination Act 1975, and the Disability Discrimination Act 1995 or any statutory modification or re-enactment thereof relating to discrimination in the provision of services to the public or in employment or contravene the Human Rights Act 1999. The Supplier shall to the extent relevant to the delivery of the Supply comply with the Council's equal opportunities policies. The Supplier shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Suppliers and all sub-contractors, employees or agents of the Supplier and all sub-contractors employed in the execution of the Contract.

12.2 If either the Council's internal or external auditors or the Commissioner for Local Administration (the Ombudsman) shall wish to investigate the Contract, then the Supplier shall provide such information, access and co-operation as those persons may reasonably require.

### **13 INDEMNITY AND INSURANCE**

13.1 Without prejudice to any rights or remedies of the Council (including those under Clause 8) the Supplier shall indemnify the Council against all matters of any kind arising in contract, tort, statute or otherwise directly or indirectly out of the wrongful act, default, breach of contract or negligence of the Supplier, its sub-contractors, employees or agents in the course of or in connection with the Contract. Without prejudice to the generality of the foregoing this indemnity shall extend to (and not be limited) in respect of death or injury to persons, damage to property, prevention of corruption, the infringement of intellectual property rights, health and safety, race relations, data protection and Ombudsman investigations.

13.2 The Supplier shall effect, with a reputable company, public and employer's liability and other insurances necessary to cover the risks contemplated by the Contract and shall at the request of the Council produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium due there under. Public liability cover of at least £5 million shall be obtained, unless agreed otherwise with the Authorised Officer. Where the Supply is a supply of consultancy services the Supplier shall maintain professional indemnity insurance during the Contract Period and for 6 years afterwards to cover its liability to the Council under the Contract.

13.3 The Contractor shall be required to comply in all respects with the provisions of the Data Protection Acts 1984 and 1998 and to indemnify the Council against all actions costs expenses claims proceedings and demands which may be made or brought against the Council for breach of statutory duty under the Act which arises from the use disclosure or transfer of personal data by the Contractor and agents.

### **14 PREVENTION OF CORRUPTION**

14.1 The Council may terminate the Contract and recover all its loss if the Supplier, its employees or anyone acting on the Supplier's behalf do any of the following things:

- offer, give or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Supplier does not know what has been done); or
- commit an offence under the Prevention of Corruption Act 1889 to 1916, or any amendment to them, or under Section 117(2) of the Local Government Act 1972; or
- commit any fraud in connection with this or any other Council contract whether alone or in conjunction with the Council's members or employees.
- where collusion has taken place between two (or more) tenderers in fixing or adjusting the bids submitted for the contract concerned

14.2 The Supplier shall inform the Council's Principal Auditor of any improper conduct by any of the Council's employees relating to the Contract or any other arrangement.

### **15 TERMINATION**

15.1 The Council may also by notice in writing terminate the Contract in whole or in part (and enter upon and expel the Supplier from any premises or site to which he has been given access) if any of the events specified in Clause 15.2 occur. No period of notice shall be required but the notice shall state the date on which it is to take effect.

15.2 The events referred to in Clause 15.1 are:-

- the Supplier has failed to make the Supply within the time specified in the Contract
- the Supplier has breached the Contract in a way which the Council reasonably regards as irretrievable, which may include, without limitation, repeated and/or persistent remediable breaches of the Contract
- the Council has given the Supplier at least one month's notice to remedy a breach of contract which can be remedied and the Supplier has failed to do so
- the Supplier has without reasonable cause failed to proceed diligently with or wholly suspends performance of any Services
- the Supplier shall have a receiver appointed over all or substantial part of his or its assets or (if an individual) be declared bankrupt or (if a company) shall go into liquidation or have an administrator appointed to manage affairs.

15.3 In the event of termination of the Contract or rejection under Clause 8, the Council may engage another supplier to make the Supply and the Supplier shall be liable to pay the Council as a debt any extra cost that the Council incurs in so doing in excess of the Contract Price.

15.4 Upon termination of this Contract for any reason whatsoever, the Supplier will return to the Council all materials, documents and other items belonging to the Council then in its possession.

## **16 ASSIGNMENT AND SUB-CONTRACTING**

16.1 Except for sub-contracts for materials or in relation to minor details none of the work covered by the Contract shall be assigned or sub-contracted by the Supplier without the written consent of the Authorised Officer which shall not be unreasonably withheld. No sub-contracting by the Supplier shall in any way relieve the Supplier of any of its responsibilities under the Contract.

16.2 The Council may at any time, without the Suppliers consent, assign any or all of its rights and obligations under the Contract to any other company or person upon giving notice to the Supplier. The Supplier shall at the request of the Council execute any novation or other agreement or documentation to give effect to such assignment.

16.3 The Supplier shall deliver the Supply directly to any third parties nominated by the Council for a Council purpose.

## **17 PURCHASE OUTSIDE THE CONTRACT AND THIRD PARTIES**

17.1 The Council shall have the right to employ a person other than the Supplier to make supplies of the same type as is contemplated by the Contract if it shall in its absolute discretion think fit to do so.

17.2 Notwithstanding any other provision of this Agreement nothing in this Agreement confers or purports to confer any right to enforce any of its terms on any person who is not a party to it. The provisions of the Contracts (Right of Third Parties) Act 1999 shall not apply to the Contract and are hereby expressly excluded.

## **18 SEVERANCE**

18.1 Any provision of the Contract which is or may be void or unenforceable shall to the extent of such invalidity be deemed to be severable and shall not affect any other provision of the Contract.

## **19 WAIVER**

19.1 No waiver or forbearance by the Council or the Supplier (whether express or implied) in enforcing any of its rights under the Contract shall prejudice its rights in the future.

## **20 NOTICES**

20.1 Any notice about the Contract may be sent by hand or by ordinary, registered or recorded delivery post or transmitted by facsimile transmission or other means of telecommunications resulting in the receipt of written communication in permanent form and if so sent or transmitted to the address of the party shown on the Contract or to such other address as the party has notified to the other, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would be first received by the addressee in normal business hours.

## **21 GOVERNING LAW**

21.1 The Contract shall be governed by and construed in accordance with English law and the Supplier hereby irrevocably submits to the exclusive jurisdiction of the English courts

### Council Purchase Orders

#### Standard Terms and Conditions

1. The price quoted for goods or services (Goods) shall be exclusive of Value Added Tax (VAT).
2. Any discount agreed between the supplier and North Warwickshire Borough Council (the Council) on the price shall have effect for the duration of the agreement.
3. Payment shall be made by the Council within 30 days from receipt of a correct and valid invoice, which must include VAT if due at the rate applicable at the tax point date of the supplier's invoice for the goods and services supplied..
4. The Council's Purchase Order number must be quoted on all invoices and delivery notes.
5. The supplier shall ensure that all Goods are of satisfactory quality and fit for purpose and comply with all applicable E.U. and British standards for the Goods.
6. The supplier shall ensure that all services are carried out with due diligence.
7. The supplier warrants to the Council that the Goods supplied will, from the time of delivery, be free from defects or failures for such period as is reasonable for that type of Goods.
8. The supplier warrants to the Council that none of the Goods supplied constitutes or involves an infringement of any existing intellectual property right and the supplier hereby agrees to indemnify the Council against all charges, expenses, costs and damages arising from any claim that the use or sale of any of the Goods so supplied constitutes or involves any such infringements.
9. The Council shall not be deemed to have accepted any part of the Goods until after its employees or agents have inspected the Goods. The Council may reject goods or services that are not in accordance with the Purchase Order until 21 days after delivery. Unless within 28 days of receipt of notice of rejection the supplier collects any goods, the Council may dispose of them as the Council shall consider fit.
10. Title to the Goods shall pass upon delivery of the Goods and satisfactory inspection of the same and (if applicable) on collection of the same by the supplier.
11. Risk in the Goods shall pass on acceptance of the Goods and (if applicable) on rejection of the Goods by the Council.
12. Any delivery date specified shall be of the essence and the delivery will be made to such delivery location as may be specified by the Council in the Purchase Order.
13. The supplier shall not claim any lien, attachment or other such right over or in connection with the goods, and shall indemnify the Council against any and all liens, attachments or other such rights asserted by persons who are, or who claim to be, sub-contractors, agents or assignees of the supplier.

14. Except as stated in Paragraph 15 below, these terms and conditions shall apply to the exclusion of all other terms and conditions including any terms or conditions which the supplier may purport (or have already purported) to apply under any sale order, confirmation of order or similar document.

15. All representations, statements or warranties made or given by the supplier and agents (including those contained in any of the supplier's brochures, catalogues or advertisements) relating to the quality and fitness for purpose of the Goods shall (to the extent that they are not inconsistent with these terms and conditions) be deemed to be express conditions incorporated herein.

16. If the supplier is found to have in the sole judgment of the Council, failed to provide satisfactory performance of the requirements of the Purchase Order; or become bankrupt or insolvent or made an arrangement or composition with its creditors or had a winding up petition made against it or had a liquidator or receiver appointed or enter into liquidation either voluntarily or compulsorily, the Council shall be entitled to terminate the Purchase Order.

17. No delay or failure in performance by either party shall constitute default or give rise to any claim for damages or loss of anticipated profits if such delay or failure is caused by force majeure.

18. The Council may make a search of the supplier with a credit reference agency and will keep a record of that search. The Council may also make enquiries about the principal directors of the supplier with a credit reference agency.

19. These terms and conditions (being part of the Purchase Order) shall be subject to English law.

20. Where a specific further contract form is required in addition to these Terms and Conditions (eg JCT or ICE) then if there is any conflict between the two then the Terms and Conditions contained herein shall not in any way be construed to modify or alter the Terms and Conditions of the specific contract form.

## Appendix 3

### Evaluation Criteria

The Council strives to implement “Best Value” in accordance with Part 1 of the Local Government Act 1999 and ODPM Circular 03/2003. Factors to be considered for evaluation in procurement include:

<b>Factor</b>	<b>Scoring criteria</b>
Is the Firm an SME	Dependent upon risk assessment
Is the Firm based within the Council Boundaries	At Procuring Officer's discretion
Will account management be based locally	At Procuring Officer's discretion
Does the Firm have the required compliances	Mandatory
How well does the Firm meet: its Quality policies	At Procuring Officer's discretion
its environmental policies	At Procuring Officer's discretion
its equal opportunities policies	At Procuring Officer's discretion
other relevant policies	At Procuring Officer's discretion
Does the Firm have reliable references	Mandatory
Does the Firm satisfy the Council's financial scrutiny	Mandatory
Have any interests been declared	Mandatory
Is the Firm an established supplier	At Procuring Officer's discretion
Can the Firm support e-ordering procedures	At Procuring Officer's discretion
Can the Firm submit invoices electronically	At Procuring Officer's discretion
Has the Firm agreed to maintain prices	At Procuring Officer's discretion
Has the Firm agreed to support cost reduction targets	At Procuring Officer's discretion
Will the Firm be using its own staff or subcontractors	Dependent upon risk assessment
Are subcontractors subject to appropriate controls	Dependent upon risk assessment
Is the Firm willing to agree a Disputes Procedure	Dependent upon risk assessment
Can the Firm provide evidence of performance against a relevant Service Level Agreement and Key Performance Indicators	Dependent upon risk assessment

## Compliance with Legislation Health and Safety.

Suppliers must comply with all current Health and Safety legislation and regulations, as relevant, including:

- (1) Health and Safety at Work Act 1974 and of any other relevant Acts, Regulations, Orders or Rules of Law pertaining to health and safety
- (2) Regulations and Guidance as provided by the Health and Safety Executive, including but not limited to:
  - a. Management of Health and Safety at Work Regulations 1999
  - b. Workplace (Health, Safety and Welfare) Regulations 1992,
  - c. Health and Safety (Display Screen Equipment) Regulations 1992
  - d. Personal Protective Equipment at Work Regulations 1992
  - e. Provision and Use of Work Equipment Regulations 1998
  - f. Manual Handling Operations Regulations 1992
  - g. Health and Safety (First Aid) Regulations 1981
  - h. The Health and Safety Information for Employees Regulations 1989
  - i. Employers' Liability (Compulsory Insurance) Act 1969,
  - j. Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995,
  - k. Noise at Work Regulations, 1989
  - l. Electricity at Work Regulations, 1989
  - m. Control of Substances Hazardous to Health Regulations, 2002
  - n. Construction (Design and Management) Regulations, 1994
  - o. Gas Safety (Installation and Use) Regulations, 1994
  - p. Working at Height Regulations, 2005

Others as advised to the Council by its Health and Safety Committee.

## Equal Opportunities.

Suppliers must comply with all current Equal Opportunities legislation and regulations, as relevant, including:

- (1) The Contractor or Supplier shall be required to show that their practices comply with obligations under:
  - a. the Sex Discrimination Act, 1975
  - b. the Race Relations Act, 1976
  - c. the Race Relations (Amendment) Act, 2000
  - d. the Disability Discrimination Act 1995
  - e. codes of practice issued by the Equality Commissions
- (2) That accordingly their practice is not to treat one group of persons less favourably than others because of their race, colour, nationality, disability, ethnic origin, religious or other beliefs, gender, sexual orientation or age in relation to decisions to recruit, train or promote employees; such proof to be given by means of answers to a questionnaire in such form as the Council shall require.
- (3) Regulations and Guidance, including but not limited to:
  - a. Equality Act 2006
  - b. The Race Relations Code of Practice for the elimination of racial discrimination and the promotion of equality of opportunity in employment, 1983
  - c. The Race Relations(Amendment) Act 2000
  - d. Employment Equality (Religion or Belief) (Amendment) Regulations 2003
  - e. Equal Pay Act 1970 (Amendment) Regulations 2003

- f. Sex Discrimination Act 1975 (Amendment) Regulations 2003
- g. Employment Equality (Sexual Orientation) Regulations 2003
- h. Disability Discrimination Act 1995
- i. The Human Rights Act 1998

Others as advised to the Council by its Equal Opportunities committee.

**OJEU Guidelines**

**Notes and Guides to Purchasing under the EU Regulations**

Minimum Financial Thresholds - Public Sector: applicable from 31st January 2006

Contracts above these thresholds must be advertised in the Official Journal of the European Union (OJEU).

Public Sector minimum financial thresholds

Supplies	Services	Works
£144,371.00	£144,371.00 (*for part A services)	£3,611,319.00

**Types of OJEU Notices**

Regime	Types of Notice
Supplies	<ul style="list-style-type: none"> <li>• Prior Information Notice (optional)</li> <li>• Contract Notice</li> <li>• Contract Award Notice</li> </ul>
Services	<ul style="list-style-type: none"> <li>• Prior Information Notice (optional)</li> <li>• Contract Notice</li> <li>• Contract Award Notice</li> </ul>
Works	<ul style="list-style-type: none"> <li>• Prior Information Notice (as soon as demand is known)</li> <li>• Contract Notice</li> <li>• Contract Award Notice</li> </ul>

Prior Information Notice (P.I.N.)

In the case of Supplies and Services this optional notice is published at the beginning of the financial year to give the market indications of the anticipated spend in general product areas and in certain categories of services.

Anticipated Works contracts should be notified to the market as soon as demand is known. The Authority can benefit from a reduction in EU procedure timescales where a P.I.N. has been published.

Contract Notice

This notice is prepared for each contract. The purpose is to inform the market of a specific demand for Supplies, Services or Works, or a combination of these. The notice must follow a certain form and must provide specific details of the contract and the procedure to be employed i.e. the Open, Restricted, Negotiated or Competitive Dialogue procedures or accelerated versions of these where appropriate

Contract Award Notice

Within 48 days of the award of a contract previously advertised in the OJEU, public sector organisations must publish a Contract Award Notice within the Official Journal of the European Union (OJEU). Essentially the notice sets out to inform the market as to which organisation/s the contract was awarded to.

## **EU Contracting Procedures**

Within the directives a number of permitted contracting procedures exist:

- Open Procedure
- Restricted Procedure
- Negotiated Procedure
- Competitive Dialogue

### Open Procedure

Under this procedure:

- The contract must be advertised in the OJEU for a minimum of 52 calendar days prior to the closing date for the receipt of tenders. This reduces to 45 days where the contract notice is submitted to the OJEU electronically.
- Where the Issuing Authority has previously published a Prior Information Notice this period in which tenders can be submitted can be reduced to a minimum of 36 calendar days. This reduces to 29 days where the contract notice is submitted to the OJEU electronically.

Under no circumstances must the advertisement in the UK press appear before the publication of the OJEU notice.

### Restricted Procedure

Under this procedure:

- The contract must be advertised in the OJEU for a minimum of 37 calendar days for applicants to register an interest in tendering. Usually registering an interest is done by completion of a Pre Qualification Questionnaire. This reduces to 30 days where the contract notice is submitted to the OJEU electronically.
- Following internal approval to the shortlist of interested organisations, a minimum of 40 calendar days is allowed from the date of dispatch of tender documents to the shortlisted parties, to the closing date. Where the Issuing Authority has previously published a Prior Information Notice this period in which tenders can be submitted can be reduced to a minimum of 26 calendar days.

### Negotiated Procedure

This is a procedure where the Authority could select providers of its choice and negotiates the terms of the contract with one or more of them. The Negotiated Procedure is however used more in the Utilities sector rather than the Public sector.

### Competitive Dialogue

This is a new procedure introduced within the 2004/18/EC Public Sector Directive. Essentially the procedure is something of a 'halfway house' between the Restricted and the Negotiated procedures. The new Directive defines Competitive Dialogue as :-

*“A procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender. “*

The Directive describes it as applicable *“For particularly complex contracts where use of the Open or Restricted procedures will not allow the award of the contract.”*

Under this procedure:

- The contract must be advertised in the OJEU for a minimum of 37 calendar days for applicants to register an interest in tendering. Usually registering an interest is done by completion of a Pre Qualification Questionnaire. This reduces to 30 days where the contract notice is submitted to the OJEU electronically.
- All candidates and tenderers must be treated equally, and commercial confidentiality must be maintained unless a candidate agrees that information may be passed to others.
- Dialogue may be conducted in successive stages. Those unable to meet the need or provide value for money (as measured against the award criteria published within the contract notice) may voluntarily drop out of, or be removed from, the process.
- Final Tenders are invited from those remaining on the basis of the identified solution or solutions.
- No specific time period is laid down within the legislation for this stage to take place and so officers will use best judgement in determining the appropriate period of time.
- Assessment is based on criteria stated in the contract notice or accompanying descriptive document outlining broad needs. Clarification of bids can occur pre and post assessment provided this does not distort competition.
- Award of the ultimate contract must be made on the basis of the most economically advantageous tender (M.E.A.T.)

### **Mandatory ‘Standstill’ Period**

The EU Procurement Law now requires a minimum Mandatory Standstill Period of 10 clear calendar days, AFTER notifying unsuccessful bidders and BEFORE the Contract Start (Purchase Order placed).

- Unsuccessful bidders must be informed of outcome of the tender and have the opportunity to get feedback PRIOR to the contract commencing.
- Debriefing of unsuccessful bidders on a strict timescale is also required to allow a legal challenge to the procurement process to emerge, if the unsuccessful bidder believes that the process has not followed EU rules.
- This does not apply to Part B services.

### Partnership Agreements: Guidelines to Partnering

#### Setting Partnership Objectives

Both parties in a procurement partnership need to recognise that, regardless of intention, their individual objectives can cause conflict:

- For the client, the objective is to achieve more for less
- For the supplier, the objective is to increase profit

There are then specific objectives that relate to the services being tendered, which might include:

- Controlling total unit cost
- Reducing defects and rework
- Increasing predictability of workload
- Reduction of non value tasks
- Sharing rewards of process and service innovation
- End-customer satisfaction with the service and output.

Successful partnerships embrace both of these objectives through a series of strategies and approaches:

- Productivity
- Engagement
- Transparency
- Training
- Innovation

Partnering Contracts should therefore be considered where:

- There is a need to measure and manage a process, not just an output
- There are risks that neither party can properly assess and mitigate
- There are significant quality of service issues and risks
- There are significant inspection and auditing costs
- There are significant management costs in delivery
- The Supplier is directly representing the Client to its customers.

The challenge of a partnership is to demonstrate that the customers, the client and the supplier are better served by working together in partnership. The typical purchasing approach destroys value and increases risks, since the efforts of each party to protect their respective needs (outputs and profit) adds cost without value.

Construction and maintenance projects are obvious candidates for partnership. Partnering is not usually appropriate in supplies of goods. The overhead of managing a partnering contract for these types of supplies is excessive, and of little added value to either party.

Unfortunately, every partnership arrangement is unique, and will depend upon how requirements and supply chains dovetail if they are to dovetail into economy, efficiency and effectiveness. These principles need to be understood by both parties and the process of developing a partnering agreement is, in itself, a skilful and careful procurement exercise.

For a partnership to work, both parties must critically assess every component of the service being provided, and this can be done through both following the challenge/ compare/ consult/ compete approach of best value within a framework such as:

## Productivity Strategies

Both parties must challenge areas such as:

- The Schedules of work, to explore how time can be saved in work in progress and travel (including the annualisation of work)
- Workflow and organisation
- Inspection regimes
- Pledges to customers in terms of their implied service costs

## Engagement Strategies

The key message in engagement is that any problem is shared, not assigned to either party.

- Both parties must be prepared to assign senior staff to the agreement with sensible management reporting against SMART objectives and KPI's to provide reviews with focus and purpose.
- Additionally, suppliers should be prepared to support local regeneration and related initiatives through skills training, partnerships with tenants, etc.
- Broad consideration needs to be given by the client as to how the partnership can support broader community objectives, and recognising that with proper budgetary support from elsewhere in the organisation. This requirement on partnerships will probably increase as the new approach to inspection emerges, together with the Respect agenda.
- Suppliers will need to engage with customer care programmes, and train and develop its workforce to represent the Client
- Subcontractors and supply chains need to be engaged in this process as well. A true partnering approach will enable both parties to meet together with the supply chain.

## Transparency Strategies

The starting point for transparency is open book accounting by the supplier.

- Effective open book requires the financial understanding of all direct and indirect costs, and recognition of the contribution of the partnership in securing additional leverage on supply chain relationships.
- This includes (but is not limited to) disclosure of wages, benefits, sub-contractor costs, supply chain arrangements, the marginal costs of overhead services, management and other fees.
- Transparency works best when applied to the supply chain beyond the first tier supplier itself. However, in complex supply webs (such as construction) this can be challenging, if not impossible, to achieve.
- Transparency needs to be applied by the client as well. This means sharing the internal time and costs involved in directing the supplier's services, such as tenant liaison, the marginal costs of overhead services, inspection processes, etc.

This is typically the weakest area of any partnership. For a supplier to lay bare its margins to this extent will depend on the profit it recovers. As a point of reference, shareholders will typically demand superior returns on its investment in a long term partnership over its traditional business model, due to perceived risks of partnering. Without understanding this, clients trying to drive down margins in a partnership will find obscurity in areas such as management overheads and supply chain costs.

Finally transparency requires a fair dispute resolution process.

## Training Strategies

Both parties need to challenge:

- How to deliver the service most cost effectively (skills and competencies of staff) and how to provide this capability
- How staff represent both parties, and how they need to present themselves to the ultimate customers
- Barriers to efficiency, including staff motivation and attitudes, and how to overcome these
- Culture conflicts, particularly amongst staff transferred between organisations, and especially from third parties.
- Other training requirements, including awareness training for other stakeholder groups
- Where key knowledge can be concentrated, for instance compliance to health and safety or environmental obligations.

Joint membership of forums may be appropriate such as Constructing Excellence or CITB-Construction Skills

## Innovation Strategies

Innovation requires a focus on performance improvement. The ultimate goal is to improve costs, certainty and the quality of the output. It needs a mature approach to criticism and an intention to learn from mistakes. Improvement is created from corrective action to prevent the recurrence of mistakes. An error is not a failure but its recurrence is.

Innovation strategies include:

- **Process Improvement:** identifying the inputs, outputs and measures to each component process, assessing performance and setting objectives for improving each stage.
- **Risk management improvement:** identifying the risk areas and uncertainties of a project, prioritising the risks that are material and likely, properly quantifying the likely implications of identified risks and developing contingency plans to mitigate these.
- **Costing improvement: evaluating** whole life cost and quantifying worst, best and likely cases, and optimising the least cost method/fastest delivery method/least labour method combination. Both parties should be incentivised to reduce cost without compromising the fundamental objectives of each party.

### **Risks Partnering must address**

For a client to consider partnering, it must be sure that the following risks tangibly exist and can be better addressed through the partnering approach to procurement:

#### Risk: The lowest bid is not the Best Value

A low price offered by a contractor at the start of the job may include significant contingencies to cover uncertainties in the scope of work that are unknown at the time of the tender. When these contingencies are sufficient to cover the uncertainties, the client loses and the programme does not represent best value; when they are not, the supplier loses and the profits are less.

This cost plus contingency approach to pricing of work can create a lottery where risk remains unaccounted for and uncontrolled. Conflict arises between client and supplier as their surveyors attempt to re-assign the risks and associated costs throughout the life of the contract.

Risk: The start price is not the end price

By tendering work, a client has clear visibility of the range of prices at the start of the job but no certainty of the final cost. Using traditional purchasing methods, the emphasis can be to create profit through claims. In the worst instances, the contracts are purposely written with loopholes, bid at a low level to win the work and the profit recovered by exploiting contract loopholes through the claims process. On starting the project neither party can be sure of the final cost, or when final payment will be made.

Risk: The variations in the project are ill defined and ill understood

A client and supplier can enter a contract without fully understanding the extent of the risk to time and cost associated with the project. The client is not certain that the quote for the job is comprehensive or that all factors have been taken into account. The supplier is not certain that the client will ultimately pay all costs. Both are at risk from uncertainties in the project and often that risk falls on the party that can spend least in the defence of claims.

Risk: The outcomes of arbitration are uncertain, but the likelihood of it is high

The process of arbitration adds to the uncertainty by bringing in another variable that is outside the control of those involved in the project. The management costs of any ill defined arbitration procedure can be highly significant in their own right.

## OFFICER EMPLOYMENT PROCEDURE RULES

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## **OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Definitions**

In these Rules:

“disciplinary action” in relation to a Member of staff of the Council means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the Member of staff’s personal file, and includes any proposal for dismissal of a Member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

“Member of staff” means a person appointed to or holding a paid office or employment under the authority

### **2. Recruitment and Appointment Generally**

#### **(a) Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether he/she is the parent, step-parent, grandparent, spouse/partner, child, step-child, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the spouse/partner of such persons
- (ii) Councillors and officers must inform the Chief Executive if they know that any candidate is related to them as specified in sub-paragraph (a)(i) of this Rule, and the Chief Executive must in turn inform the person or persons making the appointment.
- (iii) No candidate so related to a Councillor or an officer will be appointed without the authority of the Chief Executive or the relevant Director or an officer nominated by them.

#### **(b) Seeking support for appointment**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council other than in the circumstances set out in sub-paragraph (b)(ii) of this Rule. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council. This shall not, however, prevent a Councillor from supplying a written or verbal reference for a candidate, provided that the Councillor is not related, as specified in sub-paragraph (a)(i) of this Rule, to that candidate, and takes no part in the interviewing or appointment process.

- (c) Policy
  - (i) All recruitment and selection procedures and decisions must be taken in conformity with the Council's Recruitment and Selection Policy published in March 2001 or as subsequently approved or updated.

### **3. Recruitment of Chief Executive, Directors, Assistant Directors and the Assistant Chief Executive**

Where the Council proposes to appoint one or more of the above officers and it is not proposed that an appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a list specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) of this Rule to be sent to any person on request.

### **4. Power of Appointment, Dismissal and taking Disciplinary Action**

- (a) Subject to paragraphs (b) and (d) of this Rule, the function of appointment and dismissal of, and taking disciplinary action against, a Member of staff of the Council must be discharged on behalf of the Council by the Chief Executive, or by an officer nominated by him
- (b) Paragraph (a) of this Rule shall not apply to the appointment or dismissal of, or taking disciplinary action against, the Chief Executive, Directors, Assistant Directors or the Assistant Chief Executive, which powers shall, subject to paragraph (c) of this Rule, be discharge by a Sub-Committee established for that purpose by the Executive Board.
- (c) Where a Committee or Sub-Committee is discharging, on behalf of the Council, the function of the appointment or dismissal of the Chief Executive, the Council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
- (d) Nothing in paragraph (a) of this Rule shall prevent a person from serving as a Member of any Committee or Sub-Committee established by the Council (whether under its Disciplinary and Grievances Policy or otherwise) to consider an appeal by:
  - (i) another person against any decision relating to the appointment of that other person as a Member of staff; or

- (ii) a Member of staff against any decision relating to the dismissal of, or taking disciplinary action against, that Member of staff.

**5. Disciplinary Action against the Chief Executive, Director of Resources or Solicitor to the Council.**

- (a) No disciplinary action in respect of the Chief Executive, the Director of Resources or the Solicitor to the Council, except action described in paragraph (b) of this Rule, may be taken by the Council, or by a Committee, a Sub-Committee, a Joint Committee on which the Council is represented, or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct)
- (b) The action mentioned in paragraph (a) of this Rule is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

**6. Disciplinary Action Generally**

Subject to the requirements of Rules 4 and 5, the provisions of the Council's Disciplinary and Grievances Policy shall apply as regards grievances, suspensions and dismissals.

**PART 5 : CONTENTS**

**CODES AND PROTOCOLS**

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# NORTH WARWICKSHIRE BOROUGH COUNCIL

## MEMBERS CODE OF CONDUCT

### Part 1

#### General Provisions

##### Introduction and Interpretation

1. (1) This Code applies to **you** as a Member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State [13].
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code-

“meeting” means any meeting of-

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees, or Area Committees;

“Member” includes a co-opted Member and an appointed Member.

- (5) In relation to a Parish Council, references to an authority’s Monitoring Officer and an authority’s Standards Committee shall be read, respectively, as references to the Monitoring Officer and the Standards Committee of the District Council or Unitary County Council which has functions in relation to the Parish Council for which it is responsible under Section 55(12) of the Local Government Act 2000.

##### Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:-
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority.

And references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3 and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c) 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority:-

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General Obligations**

**3. (1)** You must treat others with respect.

(2) You must not:-

- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006 [14];
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:-
    - (i) a complainant;
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,
 in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's Code of Conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

**4.** You must not:-

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is-
  - (v) (aa) reasonable and in the public interest;  
and  
(bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

**5.** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You –
- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority :-
    - (i) act in accordance with your authority’s reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 [15].
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
- (a) your authority’s Chief Finance Officer; or
  - (b) your authority’s Monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **Part 2**

### **Interests Personal Interests**

8. (1) You have a personal interest in any business of your authority where either:-
- (a) it relates to or is likely to affect –
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body –
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;

- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vii) any contracts for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.00;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the Landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:-
- (i) (in the case of authorities with electoral divisions or Wards) other Council Tax payers, ratepayers or inhabitants of the electoral division or Ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other Council Tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other Council Tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is –

- (a) a member of your family or any person with whom you have a close association;  
or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## **Disclosure of Personal Interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8 (1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8 (1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's Register of Members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000 [16].

## **Prejudicial Interest Generally**

- 10.(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:-
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of:-
- (iii) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

- (iv) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (v) statutory sick pay under part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (vi) an allowance, payment or indemnity given to Members;
- (vii) any ceremonial honour given to Members; and
- (viii) setting Council Tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial Interests Arising in Relation to Scrutiny Board**

**11.** You also have a prejudicial interest in any business before the Scrutiny Board of your authority (or of a Sub-Committee of such a Committee) where:-

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's Executive or another of your authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of Prejudicial Interests on Participation**

**12.(1)** Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:-

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held;
  - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
  - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's Standards Committee;
- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the Scrutiny Board of your authority or of a Sub-Committee of such a Committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## Part 3

### Registration of Members' Interests

#### Registration of Members' Interests

13.(1) Subject to paragraph 14, you must, within 28 days of:-

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's Register of Members' Interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's Monitoring Officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's Monitoring Officer.

#### Sensitive Information

- 14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's Monitoring Officer agrees, you need not include that information when registering that interest, or as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's Monitoring Officer asking that the information be included in your authority's Register of Members' Interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**  
**PROTOCOL FOR MEMBER/OFFICER RELATIONS**

**1 Underlying Principles**

The principles underlying this protocol are as follows:

- 1.1 There shall be mutual courtesy and respect between Members and officers with regard to their respective roles set out below.
- 1.2 Members and officers shall each carry out their respective duties in the best interests of the Council.
- 1.3 This Protocol applies to all dealings between Members and officers and not just in formal meetings.

**2 The Role of Members**

2.1 The role of Members includes:

- 2.1.1 Collectively being the ultimate policy makers and decision makers and carrying out a number of strategic and corporate functions.
- 2.1.2 Promoting the social, economic and environmental well-being of the Borough.
- 2.1.3 Representing their communities and being a channel through which the needs of the community are considered, addressed or met.
- 2.1.4 Dealing with individual case work, and acting as an advocate for constituents in resolving particular concerns or grievances.
- 2.1.5 Balancing different interests identified within the Ward and representing the Ward as a whole.
- 2.1.6 Being involved in decision making.
- 2.1.7 Being available to represent the Council on other bodies.
- 2.1.8 Promoting the highest standards of conduct and ethics, in accordance with the Members' Code of Conduct.
- 2.1.9 Acting collectively as the employer of the Council's officers and staff.
- 2.1.10 Respecting officers' political impartiality.
- 2.1.11 Acting in a specific capacity listed below where appointed to so to do by the Council in accordance with the Constitution and the Member job descriptions
  - Mayor
  - Leader of the Council
  - Deputy Leader and Board Chairman
  - Portfolio Holder
  - Chairman of Scrutiny Board.

- 2.2 Members must not insist that any officer:
  - 2.2.1 Change his or her professional advice.
  - 2.2.2 Take any action that the officer advises would be unlawful or illegal, or which would be likely to amount to maladministration.

### **3 The Role of Officers**

- 3.1 Officers will:
  - 3.1.1 Initiate and implement the policies set and the decisions made by Members.
  - 3.1.2 Provide professional and technical advice to Members.
  - 3.1.3 Carry out those functions delegated to officers.
  - 3.1.4 Provide reasonable help, support and advice to all Members.
  - 3.1.5 Represent the Council in Outside Bodies.
  - 3.1.6 Act in specific statutory capacities to carry out the duties of roles to which they have been appointed, including Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- 3.2 Officers must not:
  - 3.2.1 Set policy other than such as may have been delegated under the Council's Constitution and Scheme of Delegation, or for the smooth running of office procedures and processes.
  - 3.2.2 Take any action that would be unlawful or illegal, or which would be likely to amount to maladministration.

### **4 The Relationship between Members and Officers**

- 4.1 The relationship between Members and officers should be characterised by mutual respect which is essential to good local government.
- 4.2 Close personal familiarity between individual Members and officers can damage professional relationships and prove embarrassing to other Members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and officers. If any Member or officer believes that he/she is in such a situation, he/she should make the Chief Executive or the Monitoring Officer aware of the facts, so that the likely effect on the Council can be considered and appropriate advice given.
- 4.3 Any dealing between Members and officers should be conducted with courtesy and respect and neither party should seek to take unfair advantage of their position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with officers.
- 4.4 The Council has statutory duties with regard to equalities issues to positively promote equality. Members and officers should not by their behaviour or speech be

discriminatory with regard to a person's ethnicity, gender, disability or sexual orientation. Such principles shall apply to the implementation of all personnel policies, recruitment and promotion as they apply to day to day operations.

- 4.5 Members should not raise matters relating to the conduct or capability of a Council employee or of the employees collectively at meetings held in public, or in the Press. Employees have no means of responding to criticism like this in public. (If Members feel they have not been treated with proper respect, or courtesy, or have any concern about the conduct or capability of a Council employee they should raise the matter with the relevant Assistant Director, or Director).
- 4.6 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.
- 4.7 In seeking advice and support Members should have due regard to the seniority of the Officer with whom they are dealing and the fact that, while those officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant Chief Officer rather than a more junior Member of staff. Similarly, requests for information should normally be made through the appropriate Chief Officer, unless previous arrangements have been made for the information to be available from another officer.

## **5 The Relationship between the Scrutiny Board and Officers**

- 5.1 The Council's Scrutiny Board shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality or vires of decisions taken by the Council, one of the Policy Boards or an officer acting under delegated powers. If the Scrutiny Board consider that any decision taken by the Council, Policy Board or officer might be contrary to the Council's policy framework, they shall seek the advice of the Monitoring Officer and other appropriate officers.
- 5.2 The Council's Scrutiny Protocol and Scrutiny Procedure Rules shall apply at all times when decisions are being reviewed and scrutinised.

## **6 Officer Relationships with Party Groups**

- 6.1 It must be recognised by all officers and Members that in discharging their duties officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual Members.
- 6.2 It is recognised that it is not part of the culture or practice of the Council for officers to attend political group meetings. However, it is recognised that there may be exceptional circumstances where officers may properly be called upon to support and contribute to the deliberations of political groups. All officers must at all times maintain political neutrality and, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

- 6.3 The support provided by officers can take many forms, ranging from a briefing with the Leader of the Council, the Leaders of other political groups, or Chairs of Committees, to a presentation to a full party group meeting.
- 6.4 Any request for advice given to a political group or Member will be treated with strict confidence by the officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.
- 6.5 When attendance is requested for political group meetings:
  - 6.5.1 the request to attend a group meeting must be made through the Chief Executive;
  - 6.5.2 if he considers the attendance of the officer appropriate, the Chief Executive will request (but cannot compel) the attendance of the officer;
  - 6.5.3 unless otherwise agreed by the Chief Executive, Officers will not attend party group meetings which include persons who are not Members of the Council or be present at purely party political discussions;
  - 6.5.4 such a request can only be made in relation to Council business;
  - 6.5.5 officers must respect the confidentiality of any party group discussions at which they are present.

## **7 Members in their Ward Role**

- 7.1 When acting in their Ward role Members:
  - 7.1.1 need to be mindful of their competing roles, ie acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time;
  - 7.1.2 recognise the officer's right to suggest that Senior Officers, the Council or a Board should authorise additional work requested by individual Members.

## **8 Member access to documents and information**

- 8.1 Save as provided below every Member of a Board, Committee, Panel, Forum or other group has a right to inspect documents about the business of that Board, Committee, Panel, Forum or group.
- 8.2 A Member who is not a Member of a specific Board, Committee, Panel, Forum or group may have access to any documents of that part of the Council if they satisfy the Monitoring Officer that they reasonably need to see the documents to perform their duties.
- 8.3 A Member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter:
  - 8.3.1 in which he or she has a prejudicial interest;
  - 8.3.2 where to do so would be in breach of the Data Protection Act 1998.

- 8.4 Where a Member inspects any document which contains confidential or exempt information, he or she shall not disclose that information to any other person unless or until such information becomes public in the normal course of the Council's business.

N.B. In this section, "document" includes all records or information held by the Council, whether in hard copy or electronic form.

## **9 Press Releases and Correspondence (including emails)**

- 9.1 Press releases must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party.
- 9.2 Council press releases are drafted by officers and may contain quotations from the Leader of the Council, Deputy Leader or a Portfolio Holder. Press releases about ceremonial events may contain a quotation from the Mayor or Deputy Mayor of the Council. Otherwise quotations will be made by Officers.
- 9.3 All correspondence written on behalf of the Council must be written on the relevant headed paper.
- 9.4 When Members are writing they must make it clear whether they are writing on behalf of the Council or as the Ward Member.
- 9.5 All correspondence should be open to the inspection of the public and in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if it is in conflict with the data protection legislation.

## **10 Non-Council Members on Council Bodies**

- 10.1 This protocol applies to all those people who are not elected Members of the Council but who are Members of or attend any of the Council's Boards, Committees, Panels, Forums, or other groups, including the Standards Committee and Area Forums.

## **11 Enforcement**

- 11.1 Any complaint that an officer has breached the terms of this protocol shall be referred to the Chief Executive for appropriate action under the Council's employment procedures.
- 11.2 Any complaint that a Member has breached the terms of this protocol shall be referred to the Monitoring Officer. Where:
- 11.2.1 the conduct complained of would, in the opinion of the Monitoring Officer, amount to a breach of the Council's Code of Conduct, he shall refer the matter to the Standards Committee;

11.2.2 the conduct complained of would not amount to a breach of the Council's Code of Conduct, the Monitoring Officer shall consult with the Chairman of the Standards Committee to determine whether the matter should be referred to that Committee or dealt with in some other appropriate manner (eg through the leader of the relevant political group).

## **Planning Protocol for Members and Officers dealing with Planning Matters**

### **1. Introduction**

This Protocol applies to all Members and officers who become involved with the Planning system. It is not therefore restricted to Planning and Development Board Members and planning officers. The successful operation of the planning system relies on mutual trust between Members and officers, and an understanding of each others' roles. It also relies on each acting in a way which is not only fair and impartial, but also clearly seen to be so.

### **2. The Need for Guidance**

2.1 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions), and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision making.

2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings, and the quality of their settings. It is important, therefore, that the Council, as a local planning authority, should make planning decisions which affect those interests, openly, impartially, with sound judgement, and for justifiable reasons. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well-founded in any way.

### **3 Status of the Planning Protocol**

3.1 This Planning Protocol takes account of the Council's Members Code of Conduct ("the Code of Conduct"), the Council's Protocol on Member/Officer Relations, the Royal Town Planning Institute's Code of Professional Conduct, the findings of the inquiries into the conduct of other Local Planning Authorities, advice issued by the Audit Commission, the Commissions for Local Administration in England and Wales (commonly known as the Ombudsmen), and the National Development Control Forum (now the National Planning Forum). In particular, it is based on the guidance issued in 2002 by the Local Government Association on a local code for dealing with planning matters.

3.2 The Code of Conduct is a general document and does not provide any detailed and specific guidance on what matters a Member is entitled to take into account when dealing with planning matters, what is proper behaviour with an applicant, nor about being lobbied (by applicants or objectors) or lobbying others. This Planning Protocol provides more specific guidance and is concerned with the integrity of the planning system. It is designed to give the public greater confidence that the Council is keen to operate, and to be seen to operate, fairly and openly. It is complementary to the Code of Conduct and the Protocol on Member/Officer Relations.

#### 4. The General Role and Conduct of Members and Officers

- 4.1 Members and officers have different, but complementary, roles. Both serve the public, but Members are responsible to the electorate, while officers are responsible to the Council as a whole. Officers advise Members and the Council, and carry out the Council's work. They are employed by the Council, not by individual Members, no matter what position those Members hold, and it follows that instructions may only be given to officers through a Council or Board decision. A successful relationship between Members and officers can only be based on mutual trust and understanding of each others' positions supported by good communication. This relationship, and the trust which underpins it, must never be abused or compromised.
- 4.2 The Code of Conduct provides guidance and standards for Members. Breaches of this code may be reported to the Standards Board for England. The Board has the power to take action against a Member who is guilty of a breach of the Code of Conduct, including the suspension or disqualification of a Member from office. A Code of Conduct for Officers will be introduced in the near future. This will form part of each officer's terms and conditions of employment, and breaches of the code will be dealt with under the Council's Disciplinary Procedures. Officers are also governed by the rules of their professional organisations. Thus Planning Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct, and Solicitors are governed by the Law Society's Professional Conduct Rules. Breaches of these rules may be the subject of disciplinary action by the relevant professional body.
- 4.3 The Code of Conduct covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests, but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Members participate in the planning process. Some of these issues are expanded upon in the Protocol on Member/Officer Relations. Of particular relevance to Members serving on the Planning and Development Board or who become involved in making a planning decision (e.g. where full Council deals with a planning matter) is the requirement that a Member:

“must not in his official capacity, or any other circumstance, use his position as a Member **improperly** to confer on or secure for himself or any other person, an advantage or disadvantage”  
(Paragraph 5(a) of Code of Conduct)

The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Members should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Members who do not feel that they can act in this way should consider whether they are best suited to serve on the Planning and Development Board.**

- 4.4 Members should also be very cautious about accepting gifts and hospitality. The Code of Conduct requires any Members who receive any gift or hospitality (in their capacity as a Member) over the value of £25, to provide written notification to the Monitoring Officer within 28 days. Details of the gift or hospitality are placed in a register, which is open to inspection by the public.

4.5 Officers must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. The Council carefully considers which of its officers are subject to such restrictions and reviews this regularly. During the course of carrying out their duties, officers may be offered hospitality from people with an interest in a planning proposal. If possible, such offers should be declined politely. If receipt of hospitality is unavoidable, officers should ensure it is of minimum level and declare its receipt as soon as possible. A register for the declaration by officers of gifts and hospitality is maintained by the Monitoring Officer, and regularly reviewed by him.

## 5. Registration and Declaration of Interests

5.1 The Local Government Act 2000 and the Code of Conduct place requirements on Members on the registration and declaration of their interests, and the consequences for the Member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously, and Members should review their situation regularly. Guidance on the registration and declaration of interests is issued by the Standards Board, and advice may be sought from the Council's Monitoring Officer. However, ultimate responsibility for fulfilling the requirements rests individually with each Member.

5.2 A register of Members' interests is maintained by the Monitoring Officer, and is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.

5.3 The Code of Conduct abandons the use in the old National Code of Local Government Conduct of the terms "pecuniary" and "non-pecuniary" interests. Instead, it uses the terms "**personal**" and "**prejudicial**" interests without reference to the interest being a financial or non-financial one. Under the Code of Conduct, a Member will have a personal interest in any matter under discussion if:

- (a) the matter relates to an interest in respect of which the Member has given notice in the statutory register of Members' interests; or
- (a) the decision upon it might reasonably be regarded as affecting, **to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, or a relative or friend, or
  - any employment or business carried on by such persons;
  - any person who employs or has appointed such persons, any firm in which they are a partner or any company of which they are directors;
  - any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - any body, Membership of which the Member is required to register in the statutory register of interests, in which such person hold a position of general control or management.

5.4 Where a Member considers that he has such a personal interest in a matter, he must always declare the existence and nature of the interest, **but it does not necessarily**

**follow that the personal interest debars the Member from participation in the discussion.**

- 5.5 The Member then needs to consider whether the personal interest is also a **prejudicial** one. The Code of Conduct provides that a personal interest becomes a prejudicial one "...if the interest is one which a Member of the public **with knowledge of the relevant facts** would **reasonably** regard as so significant that it is likely to prejudice the Member's judgement of the public interest". If a Member has such an interest, he should not participate in any discussion on the matter, and the Code of Conduct requires that he should leave the room during the consideration of the matter.
- 5.6 The Code of Conduct includes some exceptions to this. For example, the Member's interest **may not be regarded as prejudicial** if the matter under discussion relates to:
- another authority (e.g. County Council or Parish Council) of which he is a Member
  - another public authority in which he has a position of general management or control
  - a body to which he has been appointed or nominated as a representative by the authority.

In those circumstances, the Member would need to declare the interest, but could participate in the discussion and voting on the matter.

- 5.7 It can be seen that these provisions of the Code of Conduct are an attempt to separate out interests arising from the personal and private interests of the Member, and those arising from his wider public life. The emphasis is on a consideration of the status of the interest in each case by the Member personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. Further guidance of this has been provided by the Standards Board, and is available on their web-site [[www.standardsboard.co.uk](http://www.standardsboard.co.uk)]. In the end, however, the decision will be for the Member alone to take.
- 5.8 Translated to a Member's involvement in planning issues, the two stage test of personal and prejudicial interests will, as now, require a Member to abstain from involvement in any issue the outcome of which might advantage, or disadvantage, the personal interests of the Member, his family, friends or employer. **The declaration of interest and, where necessary, abstention from involvement, should apply not just at the meeting of the Planning and Development Board, but also at informal meetings or discussions with officers or other Members.**
- 5.9 The exceptions made to the definition of prejudicial interests relating to Membership of outside bodies mentioned above are attempts to clarify the nature of such interest and to encourage participation in such cases. It appears that too often in the past, Members have been prevented from participation in discussion in such circumstances, on the basis that mere Membership of another body constituted an interest that required such a prohibition, even in cases where the Member was only on that body as a representative of the Council.
- 5.10 When considered in the context of planning matters, this approach will require the exercise of particular judgement on the part of the Member. The use of the term "prejudicial" to describe the interest is helpful here. If the planning matter under consideration relates to another body on which the Member serves, the exemption in the Code of Conduct would suggest that the Member could participate in a decision

on that matter – i.e. Membership of that body could not be considered per se a prejudicial interest, which would bar the Member from participating.

- 5.11 However, if a Member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in meetings of the other body or otherwise, he would not be able to demonstrate that, in participating in the decision, all the relevant facts and arguments had been taken into account – he would have fettered his discretion. Were he to participate in the decision-making in those circumstances, he might place the authority in danger of judicial review. So the exemption in the Code of Conduct would only operate in the planning context if the Member had scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance on appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in section 7 on lobbying.

## **6. Development Proposals Submitted by Members and Officers, and Development by the Council.**

- 6.1 All applications by serving Members and officers will be determined by the Planning and Development Board (i.e. they will not be determined by the Director of Community and Environment under his delegated powers). All applications by the Council itself, or by other parties for development of Council-owned land, will be determined by the Full Council following a recommendation from the Planning and Development Board.
- 6.2 All Members or officers who submit a planning application or who have a planning application submitted on their behalf shall ensure that they notify the Director of Community and Environment and the Monitoring Officer of that submission in writing.
- 6.3 The consideration of an application from a Member in such circumstances will be a prejudicial interest under the Code of Conduct, and as such, the Member will be required to withdraw from any consideration of the matter. The Code of Conduct also provides that a Member should “not seek **improperly** to influence a decision about the matter”. This does not imply that a Member should have any less rights than a Member of the public in seeking to explain and justify his application to a planning officer in advance of consideration by the Planning and Development Board.
- 6.4 All applications by a Member or an officer which are reported to Planning and Development Board will be designated as a Member or an officer application on the face of the agenda.
- 6.5 Serving Members who act as agents for people pursuing planning matters with the Council should play no part in the processing or determination of those applications

## **7. Lobbying of and by Members**

- 7.1 Lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or a Member of the Planning and Development Board. As the Nolan Committee’s Third Report states: “It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representatives, the Councillors themselves” (paragraph 288).

- 7.2 However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Member being called into question. When being lobbied, Members, particularly those who sit on the Planning and Development Board, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant planning officer, in order that their opinions can be included in the officer's report to the Board. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the Board meeting. That evidence and argument will relate to planning considerations and not the personal circumstances of individuals.
- 7.3 Members generally, and in particular those who sit on the Planning and Development Board, need to take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or another before hearing all the arguments makes them vulnerable to an accusation of partiality. Determination of a planning application is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. There is an added possibility that an aggrieved party may seek judicial review of the way in which a decision has been arrived at; or complain to the Local Government Ombudsman on grounds of maladministration; or to the Standards Board that a Member has breached the Code of Conduct.
- 7.4 In reality, of course, Members will often form a judgement about an application early on in its passage through the system, whether or not they have been lobbied. The difficulty created by the nature of the Planning and Development Board's proceedings as set out in paragraph 7.3, is that Members of the Board should not openly declare which way they intend to vote in advance of the Board meeting, and of hearing evidence and arguments on both sides.
- 7.5 Political reality suggests that it is often important to distinguish between the role of a Planning and Development Board Member who is a Ward Member for the area affected by a particular planning application, and one who is not. A Planning and Development Board Member who does not represent the Ward affected is in an easier position to adopt an impartial stance, however strong his or her feelings about the application may be, and to wait until the Board meeting before declaring one way or another.
- 7.6 A Planning and Development Board Member who represents a Ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome – or even campaigning actively for it – it will be difficult for that Member to argue convincingly, when the Board comes to take a decision on the application, that he or she has carefully weighed the arguments presented – perhaps in some respects for the first time – at the meeting. Whilst in most circumstances this would not amount to a prejudicial interest in terms of the Code of Conduct, the proper course of action for such a Member would be to make a declaration of his or her position and not vote. Provided that the Member does not have a prejudicial interest, this course of action would not prevent him or her speaking on the application at the Planning and Development Board meeting.

- 7.7 Where there are two or three Members representing a Ward or area, and only one is a Member of the Planning and Development Board, it may be more appropriate for the Members who are not Members of the Board to represent local opinion on controversial issues. This will prevent the Board Member being put in the position outlined in paragraph 7.6.
- 7.8 There may also be occasions when a Member is asked to present the case for an applicant or objector to the Planning and Development Board. This is a perfectly proper part of the role of representing a constituent. To do so does not necessarily mean that the Member agrees with the case he is being asked to present; nor does it mean that the Member necessarily has to vote in accordance with the wishes or views of the person whose case he has presented.
- 7.9 It should be evident from the previous paragraphs that it is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is ultimately the responsibility of the individual Member. The following points are, however, offered as guidance:
- Given that the point at which a decision on a planning application is made cannot occur before the Planning and Development Board meeting, when all available information is to hand, and has been duly considered, any political group meeting prior to the Board meeting should not be used to decide how Members should vote. The view of the Ombudsman in relation to the former national code was that the use of political whips to seek to influence the outcome of a planning application could amount to maladministration. There is nothing in the new Code of Conduct which would serve to change this advice.
  - With the exception in some circumstances of Ward Members, whose position has been covered in the preceding paragraphs, Members should in general avoid organising support for or against a planning application, and avoid lobbying other Members. Such actions can easily be misunderstood by parties to the application and by the general public.
  - Members should not put improper pressure on officers for a particular recommendation, and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.
- 7.10 Members who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer, although, as indicated above, the decision rests with the Member.
- 7.11 Members who do not sit on the Planning and Development Board will have greater freedom than Board Members. They are still, however, bound by the Code of Conduct as explained in paragraphs 4.2 to 4.4 of this Protocol. Should they be called upon to determine an application at full Council then the guidance set out in this section will apply to that determination.

## **8. Pre-Application Discussions**

8.1 Discussions between a potential applicant (or an agent on behalf of the applicant) and the Council prior to the submission of an application can be of considerable benefit to both parties. This is encouraged by the Audit Commission ("Building in Quality" paragraph 56), the Local Government Association and the National Planning Forum. However, it would be easy for such discussions to become, or be seen (especially by objectors) to become, part of a lobbying process.

8.2 In order to avoid such problems, pre-application discussions should take place within the guidelines set out in the following paragraphs. Although the term 'pre-application' has been used, the same considerations should apply to any discussions with applicants which take place before a decision is taken, or where following a decision there are discussions about amendments or changes to a proposal.

### **8.3 Officers.**

8.3.1 Processing applications (including any discussions or advice before submission of an application) is normally the responsibility of officers, which ensures that the proper level of professionalism and expertise is available. The process includes advice and guidance on the Council's policies, discussions and negotiations about the proposal and the merits of the application, and gathering information either to prepare the report to Planning and Development Board, or for the Director of Community and Environment to take the decision under delegated powers. The following guidelines should apply:

- Officers will advise the applicant whether the decision is one which falls within the Director of Community and Environment's delegated powers or whether the decision will be taken by the Planning and Development Board;
- It should always be made clear at the outset of any pre-application meeting that the discussions will not bind the Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, nor will consultation with interested parties have taken place;
- Advice should be consistent, especially where more than one officer is involved, and should be based on the Development Plan and other material considerations.
- A written note should be made of all meetings (if possible, immediately after the meeting), and this should be placed on the application file as soon as possible. A written note should also be made of similar telephone discussions.

8.3.2 Where an application of particular significance for determination by the Planning and Development Board is likely to be made, the Chairman of the Board, Ward Members and lead Members from each political group shall be informed of the nature of the proposal as soon as possible.

### **8.4 Members**

8.4.1 For their own benefit and protection, Members should generally seek to avoid pre-application meetings. Such meetings with potential applicants bring Members into an environment where the merits of proposals are discussed, and this may compromise

a Member in taking an impartial stance when the application comes before the Planning and Development Board for decision.

- 8.4.2 If an applicant requests such a meeting with a Member, the Member should explain the difficulties of such a meeting, and offer to arrange a meeting between the applicant and the relevant Planning Officer.
- 8.4.3 In exceptional circumstances, the Planning and Development Board may authorise particular Members to attend a presentation by an applicant or his agent. Officers will normally arrange such presentation, and attend with Members. At the start of such presentation, officers will explain that it is taking place at the request of the applicant and that the merits of the case will not be discussed. Members and officers will, of course, be free to ask questions about the proposal as part of the presentation. If the applicant requests the views of the authority, these will be communicated subsequently and in writing. In such communication, officers will make it clear that any views expressed prior to formal determination of an application are preliminary.

## **9. Decisions delegated to Officers**

- 9.1 The Council has adopted, and keeps under review, a formal “Scheme of Delegation to Director of Community and Environment in respect of determination of Planning Applications”. This is set out on pages 73 – 78 of the Constitution. It states clearly which applications will be reported to the Planning and Development Board for determination. All other applications will be determined by the Director of Community and Environment under her delegated powers.
- 9.2 In particular, the Board will determine “any application where a request based on material planning considerations is made in writing to the Director of Community and Environment by any Borough Councillor for referral of that application to the Board” [para 4.1(g) of the Scheme]. Any Member who is unsure whether his/her concerns about an application constitute a material planning consideration is invited to contact the relevant officer to discuss the issue. Where possible, the officer will assist the Member in framing his/her concerns where there is a material planning consideration.
- 9.3 The Council has a government imposed target of making 90% of its planning decisions by delegation to officers. Where a delegated decision can be made and where a consultation response runs contrary to the likely officer decision Ward Members are contacted and given the opportunity to request that the case be referred for Board to make the decision. The test in the preceding paragraph is used to ensure there are planning reasons for such a request.[para 5.1 of the scheme of delegation]
- 9.4 All Members are circulated applications and decisions on a weekly basis and can use this information to track the progress of particular applications and the method of decision.

## **10. Officers’ reports to Planning and Development Board**

- 10.1 It is important for the Council to be able to demonstrate in its decision making that there has been adequate consideration of all the relevant issues; consistency; and clear reasoning leading to the decision. Officers’ reports to the Board will therefore:
- Be in writing;
  - Be accurate, and cover, amongst other things, the substance of any objections, and the views of those consulted;

- Contain clear references to the Development Plan; site or related history; and other material considerations;
- Have a clear recommendation – for approval with conditions, or for refusal with reasons;
- If any recommendation is contrary to the provisions of the Development Plan, the material considerations which justify the departure will be clearly stated.

## **11. Decisions contrary to Officer’s Recommendation**

- 11.1 Whilst in strict legal terms the Planning and Development Board is under no obligation to follow the advice of officers, s.54A of the Town and Country Planning Act 1990 provides that any planning determination shall be in accordance with the development plan unless material considerations indicate otherwise. Thus, there must always be clear and convincing planning reasons for the Board’s decision. If decisions are taken for non-planning reasons, or for reason which are not sustainable at an appeal, there is the potential for an award of costs to be made against the Council. Therefore if the Board makes a decision contrary to the officer’s recommendation (whether for approval or refusal), a detailed minute of the Board’s reasons should be made and a copy placed on the application file. Officers should also be given the opportunity to explain the implications of the contrary decision before it is taken.
- 11.2 Any Member who is contemplating proposing a motion to refuse an application contrary to the officer’s recommendation should contact the relevant officer to discuss his/her intention. The officer will advise the Member whether the Member’s concerns would constitute a valid planning reason for refusing permission; and if so, assist the Member in drafting reason[s] for refusal. The Board will be advised as to the strength of the suggested reason for refusal and any possible financial implications for the Authority.

## **12. Planning and Development Board Site Visits**

- 12.1 The purpose of a visit to an application site is for Members to gain information on relevant planning issues relating to the site which is not available from officers’ reports (including in response to Members’ questions at the Board meeting) in order to assist Members in reaching their decision. It is not to provide a forum for debate and discussion on the merits of the application. Site visits can cause delay and additional costs for an applicant, and should only be requested where the expected benefit from such a visit is substantial. Agendas are published well ahead of meetings and Members have the chance to visit sites before debate at Board.
- 12.2 A request from the Ward Member for a site visit is a proper part of the representative role of the Ward Member, and should normally be acceded to, although the ‘substantial benefit’ test should still apply.
- 12.3 All site visits will be conducted subject to the following criteria:
- A site visit will only take place once authorised by the Board
  - Authorised attendance at a site visit shall be limited to Members of the Planning and Development Board, local Ward Members, relevant officers, the applicant together with his or her representative, and any objector (or a representative of a group of objectors) whom the Board considers should be invited to be present

(e.g. where it is claimed that a proposed development will have a significant impact on a neighbouring property)

- At a site visit, all communication between parties (the applicant or his agent, objectors, and Members and officers) should be led by and conducted through the Director of Community and Environment or his representative,
- There shall be no discussion of the merits of the application during the site visit. Such discussion shall only take place at a meeting of the Planning and Development Board
- Applicants, objectors, or their representatives shall not be permitted to make representations to Members of the Board during a site visit. They may, however, give purely factual information which is requested by Members and which cannot be ascertained by viewing alone.
- At the Planning and Development Board at which the application is considered, the Director of Community and Environment, will draw Members attention to any material considerations which arise as a result of the site visit
- The written notification of the site visit will set out these criteria so that all those attending are aware of them

### **13. Regular Review of Decisions**

- 13.1 Members shall on an annual basis undertake a review and visit a sample of implemented planning permissions to assess the quality of the decisions. The aim of this will be to monitor and improve the quality and consistency of decision-making, thereby strengthening public confidence, and helping with reviews of planning policy.
- 13.2 Each review should include examples of a broad range of categories, e.g. major and minor development, permitted departures, upheld appeals, listed building works and enforcement cases. The Planning and Development Board shall formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

### **14. Breaches of this Protocol**

- 14.1 Unless it is appropriate to refer them direct to another forum (e.g. the Standards Board) any alleged breaches of this Protocol by a Member will be referred to the Council's Standards Committee. The Committee will consider whether the Protocol has been breached and will issue advice and guidance and, if appropriate, recommend action to be taken to the Council and/or Party Groups.
- 14.2 Any alleged breaches of this protocol by an officer will be dealt with under the Council's disciplinary procedures.

### **15. Review**

- 15.1 This Protocol will be reviewed not later than 31 December 2005.

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## **NORTH WARWICKSHIRE BOROUGH COUNCIL**

### **EMPLOYEE CODE OF CONDUCT**

#### **1. Introduction**

This Code of Conduct applies to all those individuals who are employed by North Warwickshire Borough Council (“the Council”). It will also be a requirement of any contract for the provision of services to the Council, or on behalf of the Council to members of the public, that those engaged on the provision of the service shall be bound by this Code. Throughout this document the term “employee” shall be construed accordingly.

#### **2. General Principles**

The public is entitled to expect the highest standards of conduct from all employees of the Council. The role of such employees is to serve the Council in providing advice, implementing its policies and delivering services to the people of North Warwickshire. In performing their duties, employees must act with integrity, honesty, impartiality and objectivity.

#### **3. Accountability**

Employees work for the Council and serve the whole of the Council. They are accountable to, and owe a duty to, the Council. They must act in accordance with the principles set out in this Code, recognising the duties of all public sector employees to discharge public functions reasonably and according to law.

#### **4. Political Neutrality**

Employees, whether or not politically restricted, must follow every lawfully expressed policy of the Council, and must not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities

#### **5. Relations with members, the public and other employees**

Mutual respect between employees and members is essential to good local government, and working relations should be kept on a professional basis. This area is covered more fully in the Council's “Protocol for Member/Officer Relations”.

Employees should deal with the public, members, other employees and contractors, sympathetically, efficiently and without bias.

#### **6. Equality**

Employees must comply with all the Council's policies relating to equality issues, in addition to the requirements of the law.

## **7. Stewardship**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so. Employees must follow the requirements of the Council's Financial Regulations at all times.

## **8. Personal Interests**

Whilst employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

- (1) the rules of the Council on the registration and declaration by employees of financial and non-financial interests, which form Appendix A to this Code
- (2) the rules of the Council requiring employees to declare any gift or hospitality with a value of £25 or over which is received in the course their employment.

## **9. Corruption**

Employees should be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything, or showing favour or disfavour to any person in their official capacity. If it is proved that an employee has received any gift, loan etc., it is for the employee to demonstrate that it has not been corruptly obtained.

## **10. Whistleblowing**

In the event that an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the council's Confidential Reporting Policy, or any other procedure designed for this purpose.

## **11. Treatment of Information**

The council regards openness in the dissemination of information and decision making as the norm. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a person who is entitled to receive it, or who needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

## **12. Appointment of Staff**

Employees involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit, and in accordance with the Council's Recruitment Policy. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective

employee, to whom they are related, or with whom they have a close personal relationship outside work.

**13. Breaches of this Code**

Any breach of this Code by an individual employed by the Council will be dealt with under the Council's Disciplinary Procedure. Any breach by an individual employed by a contractor providing services to, or on behalf of, the Council will result in that individual being removed from the contract, unless agreed otherwise between the Council and the contractor.

**14. Review**

This Code will be reviewed no later than 30 June 2012.

## Appendix A

### DECLARATION OF FINANCIAL AND NON-FINANCIAL INTERESTS

1. An employee must declare any financial or non-financial interest of which he is aware which in any way affects or is connected with any business which the Council is conducting. This will include any interest which the employee or a relative has in matters such as (the following list is illustrative only and should not be regarded as exhaustive):
  - Any application to purchase or lease land from the Council, or to procure any service from the Council on any terms different from those on which such services are available to the residents of the Borough generally;
  - Shares in any company which is tendering for, or has, a contract with the Council;
  - Interest in any land which is affected (either beneficially or adversely) by any application for planning permission;
  - Membership of any club, society, or other organisation which is applying to the Council for any grant, licence, or permission, or requesting the Council to waive or refrain from enforcing any charge or penalty or otherwise taking action against the organisation;
  - Any relative applying for employment with the Council.
- 2 Any such declaration shall be made in writing to the Monitoring Officer as soon as the employee becomes aware of such interest. The Monitoring Officer shall maintain a register of all such declarations, which shall be available for inspection by Members and Chief Officers. He shall also inform any other member or officer whom he considers needs to know of the interest for the proper performance of their duties to the Council.
3. In this appendix, the term “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of these people; and “partner” means a member of a couple who live together.

**PART 6 : CONTENTS**  
**MEMBERS' ALLOWANCES SCHEME**

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## **MEMBERS' ALLOWANCES SCHEME FROM 1 APRIL 2009**

North Warwickshire Borough Council, in exercise of the powers conferred by the Local Authorities' (Members' Allowances) Regulations, 2003, has made the following Scheme, after consideration of the advice and recommendations from the Independent Remuneration Panel.

The Scheme is based on the rates recommended by the Panel and is to be implemented from 14 May 2008, and is linked to the pay rates agreed by the National Joint Council for Local Government Services.

In this Scheme:

"Councillor" means a Member of the North Warwickshire Borough Council who is a Councillor;

"Year" means the 12 months ending with the 31 March;

"Panel" means the Independent Remuneration Panel.

### **1 Basic Allowance**

Subject to paragraph 6, for each year, a Basic Allowance is to be paid to each Councillor as set out in Schedule 1 to the Scheme. This is intended to cover a notional £142 per year for telephone calls related to Council activity on the part of elected Members. Basic Allowance will be paid in the month it is due.

### **2 Special Responsibility Allowances (SRA)**

Subject to paragraph 6, for each year, an SRA shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are set out in Schedule 1 to this Scheme. SRA will be paid in the month it is due.

### **3 Travel and Subsistence Allowances**

These payments will be made in the following month and upon receipt of a claim form. Members are able to claim Travel and Subsistence Allowances in respect of their travel to and from: -

Meetings of the Council, together with any additional meetings of Boards and Committees called by the Chief Executive of which the Councillor is an appointed member;

All Authority-authorized working parties, presentations, training courses and site visits to which Members are formally invited, together with attendance required under standing orders for the opening of tender documents;

Formal meetings of approved Outside Bodies by appointed representatives of the Council, as detailed in schedule 2;

A meeting of or on behalf of the West Midlands Leaders' Board or the national LGA as an official representative of those bodies;

Meetings arranged between Officers and the Chairman and/or Vice Chairman of any Board or Committee with a view to discussing the business of that Board or Committee; and any visit by a Member at the invitation of an Officer to the office for any purpose in connection with the conduct of the Council's affairs;

Mileage allowance will not be payable where travel is to a surgery.

Mileage claims will only be paid from a Member's permanent place of residence to meetings, but where this is not appropriate, should be the most economic route to meetings. (E.g. The mileage from a Member's home to the Council House is 5 miles. The Member attends a Council meeting directly from a private engagement which is 20 miles from Atherstone. The mileage claimable is 5 miles to the meeting and the return journey home.)

Reimbursement for journeys by public transport are capped at the standard 'walk up' fare or actual cost if less;

If Members pre-book in advance and the cost of first-class is less or equal to standard published walk up fare, then travel by first class is permissible;

Members should get the approval of the Monitoring Officer to make a travel claim, if they feel they have attended a meeting as representative of the Council that is clearly not within the current scheme.

Subsistence and overnight accommodation allowances will only be reimbursed upon the production of receipts.

Details of the rates for Travel and Subsistence Allowance are set out in Schedule 3.

#### **4 Dependant and Child Care Allowances**

This Allowance is divided into two parts: namely child care and elderly/disabled care. In respect of child care, this Allowance is available to Members who are eligible at the minimum wage rate, currently £5.80 per hour, up to a maximum of 15 hours per week. To claim this, a Member will need to:

- ◆ register that they have a dependant child living with them under the age of 14
- ◆ sign a statement which declares that the child care has been provided by a childminder and not paid to a member of the immediate family or household. This statement will be lodged with the Standards Committee and Director of Resources

With regard to the elderly and/or disabled care element of the Allowance, this is to be paid at a similar rate chargeable by Warwickshire County Council Social Services Department (at an agreed maximum set by the Council and/or its Officers) for provision of a Home Care Assistant.

To claim this a Member will need to:-

- ◆ register that they have an elderly/disabled person living with them
- ◆ sign a statement which declares that the care has been provided by a carer and not paid to a member of the immediate family or household. This statement will be lodged with the Standards Committee and Director of Resources

NB: In respect of these allowances, a Member cannot claim for the employment of multiple carers for multiple dependants.

Payments will be made in the following month and upon receipt of a claim form.

#### **5 Renunciation**

A Member may forego any part of his/her entitlement under this Scheme by giving notice in writing to the Assistant Director (Finance and Human Resources).

#### **6 Part-Year Entitlements**

The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances where, in the course of a

year, this Scheme is amended or that Councillor becomes or ceases to be a Councillor, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

If an amendment to this Scheme changes the amount to which a Councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance, then in relation to each of the periods:

- a beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- b beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the end of the year

The entitlement to such an Allowance shall be to the payment of such part of the amount of the Allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.

Where this Scheme is amended as mentioned in the second paragraph of this Section and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (a), the entitlement of any such Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.

Where a Councillor has during part of but not throughout a year such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of that Allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.

Where this Scheme is amended, as mentioned in the second paragraph of this section, and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (a) of that paragraph any such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of the Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **7 Claims and Payments**

Claims for Allowances under this Scheme shall be made in writing within two months of the date of the meeting in respect of which the entitlement to the Allowance arises.

Claims for Travel and Subsistence shall include, or be accompanied by, a statement signed by the Councillor that the claims are in respect of the performance of approved duties and are in accordance with the Members' Allowances Scheme.

## **8 Payments shall be made**

- a in respect of Basic and Special Responsibility Allowance, subject to the following paragraph, in instalments of one-twelfth of the amount specified in

this Scheme on the 20<sup>th</sup> day of each month or other such date as specified by the Payroll timetable;

- b in respect of travel and subsistence, dependant and child care allowances on the 20<sup>th</sup> day of each month in respect of claims received up to the 15<sup>th</sup> day of the previous month, or other such date as specified by the Payroll timetable.

Where a payment of one-twelfth of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 5, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

#### **9 Suspension of Allowances**

Where a Member is found to be in breach of the Code of Conduct, then the Standards Committee may suspend, in whole or part, the allowances made to that Member, including travel and subsistence.

#### **10 Indexation**

Basic Allowance, Special Responsibility Allowance and Dependant and Child Care Allowance are indexed to the Local Government pay percentage as agreed in April each year, or other such time, and linked to spinal column point 49 of the NJC scheme. This will be reviewed in 2012, unless a review is carried out by the Independent Remuneration Panel earlier.

#### **11 Local Government Pension Scheme**

Members, aged under 75, are eligible to join the Local Government Pension Scheme. This applies to both Basic Allowances and Special Responsibility Allowances

#### **12 Appeals Panels**

Any Member, sitting on Appeals, including those already in receipt of an SRA, who put in more than two days per year in appeals meetings, will be paid an SRA at the end of the civic year as a lump sum. The total days input could include more than four appeals meetings that last less than four hours, or one day being a meeting over four hours. This is intended as recognition of the extra workload carried out by Members on appeals, rather than responsibility.

## SCHEDULE 1

Set out below are details of the amounts of Basic and Special Responsibility Allowances payable under the Scheme with effect from 1 April 2008.

<b>Allowance:</b>	<b>Amount £</b>
Basic	4,942
Leader of the Council and Chairman of the Executive Board * rate applicable from 14 May 2008	10,987*
Deputy Leader and Chairman of the Planning and Development Board	4,983
Deputy Leader and Chairman of the Resources Board	4,983
Deputy Leader and Chairman of Community and Environment Board	4,983
Chairman of Scrutiny Board	4,983
Leader of the Opposition- standard element - per group member	1,162 233
Portfolio Holders	1,745
Chairmen of Area Forums	1,745
Deputy Leader of the Second Largest Party	1,745
Leader of the Minority Group- standard element - per group member	1,162 233
Appeals Panel Members	260

Note: No one Councillor should be entitled to receive more than one SRA.  
Work on Appeals Panels will be paid retrospectively and is subject to conditions.

Co-opted Chairman of the Standards Committee- Co-optee's Allowance	293
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## SCHEDULE 2

<b>Body</b>
Age Concern – Warwickshire
Atherstone Forum
Atherstone School Youth Club House Committee
Baddesley Ensor Youth Centre House Committee
Beeline Community Car Service
Best Village of the Year (Warwickshire Rural Community Council)
Birmingham Airport Consultative Committee
Coleshill Grammar School Endowment Foundation
Coleshill Youth Wing House Committee
Court of the University of Warwick and Court of the University of Birmingham
Coventry, Solihull, Warwickshire Partnership Destination Management Partnership
Coventry, Solihull, Warwickshire Sub-Regional Forum
Credit Union
Former Baddesley Colliery, Baxterley Liaison Group
Groundwork Coventry
Hartshill Hayes Country Park Advisory Committee
Health Improvement Steering Group
Kingsbury Liaison Group
Kingsbury Youth Centre and Sports Hall Management Committee
Local Area Agreement Theme Blocks:
Local Government Association
Local Government Association – Fourth Option Special Interest Group
Local Government Association Rural Commission
Local Government Information Unit
Market Towns Initiative Coleshill
Middleton Hall Trust
North Warwickshire Area Community Education Council
North Warwickshire Arts Council
North Warwickshire Citizens Advice Bureau – Management Committee
North Warwickshire Local Strategic Partnership
North Warwickshire Sustainable Community Strategy Theme Groups
Piccadilly Community Association
Polesworth Youth Wing Committee
Rowan Organisation
Sparse
Stanyer’s Charity
Superannuation Fund Consultative Board
Supporting People
The Alliance (Coalfields CC; Leading action for Textiles, Clothing & Footwear; RETI (UK); Steel action)
Warwickshire County Council – Health Overview and Scrutiny Committee
Warwickshire Rural Community Council – Project Committee
Warwickshire Rural Community Council- Executive Committee
Warwickshire Waste Management Forum
West Coast Rail 250 Campaign
West Midlands Local Government Association – Provincial Council
West Midlands Local Government Association – Regional Planning Partnership
West Midlands Local Government Association Council /West Midlands Leaders’ Board
Wood End Community Centre

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### SCHEDULE 3

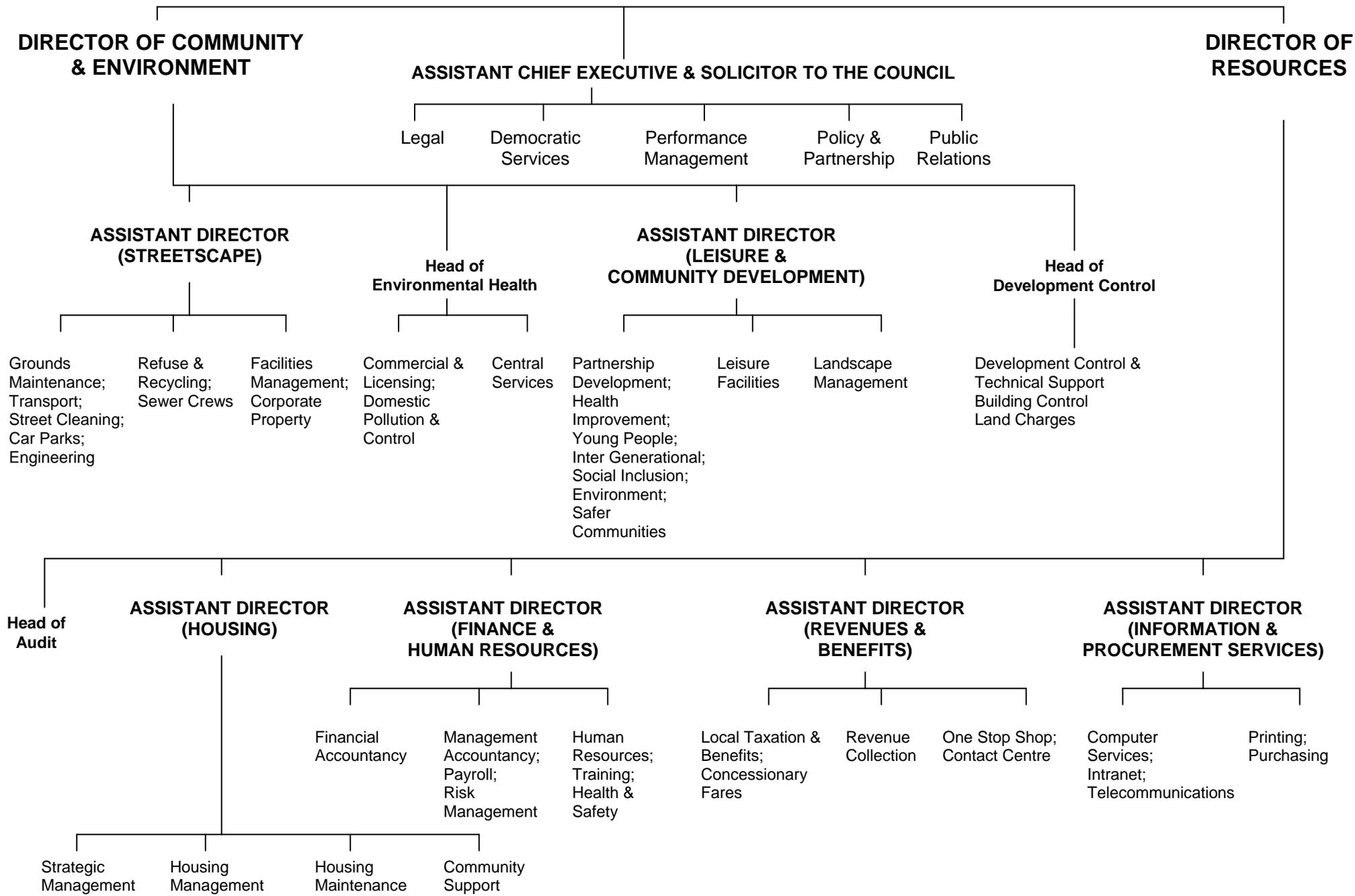
#### Travel and Subsistence Allowances

- 1 The current mileage rates are:-
  - (i) 500 cc to 999 cc vehicle **42.9p** per mile
  - (ii) 1000 cc to 1199 cc vehicle **46.9p** per mile
  - (iii) 1200 cc and above vehicle **58.7 p** per mile
  
- 2 The current subsistence rates are:-
  - (a) The rates of day subsistence, which are indexed to Officers' Allowances are as follows  
Receipts should be provided:

Breakfast allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, before 11.00 am)	<b>£5.84</b>
Lunch allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, including the lunchtime between 12 noon and 2.00 pm)	<b>£8.04</b>
Tea allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, including the period 3.00 pm to 6.00 pm)	<b>£3.17</b>
Evening meal allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, ending after 7.00 pm)	<b>£9.94</b>
  - (b) In the case of an absence overnight from the usual place of residence, **£95.26**. For absence overnight in London, or for the purposes of attendance at the LGA Annual Conference, an allowance of **£108.65**.
  
- 3 Mileage and other travel allowances and subsistence payments will be paid for the purpose of an approved duty.
  
- 4 In addition, following Council approval, for the purposes of travelling and subsistence expenses, the following are to be included in the Council's Scheme of Approved Duties:
  - (i) Meetings arranged between Officers and the Chairman and/or Vice Chairman of any Committee or Sub-Committee, with a view to discussing the business of that Committee or Sub-Committee; and
  - (ii) Any visit by a Member at the invitation of an Officer to the office for any purpose in connection with the conduct of the Council's affairs.

- 5 Mileage allowances will not be payable where travel is to a surgery.
- 6 Mileage rates are indexed to the Officer casual user rate.
- 7 Subsistence Allowance shall be paid at the same rate as Officers. Receipts are required.

# CHIEF EXECUTIVE



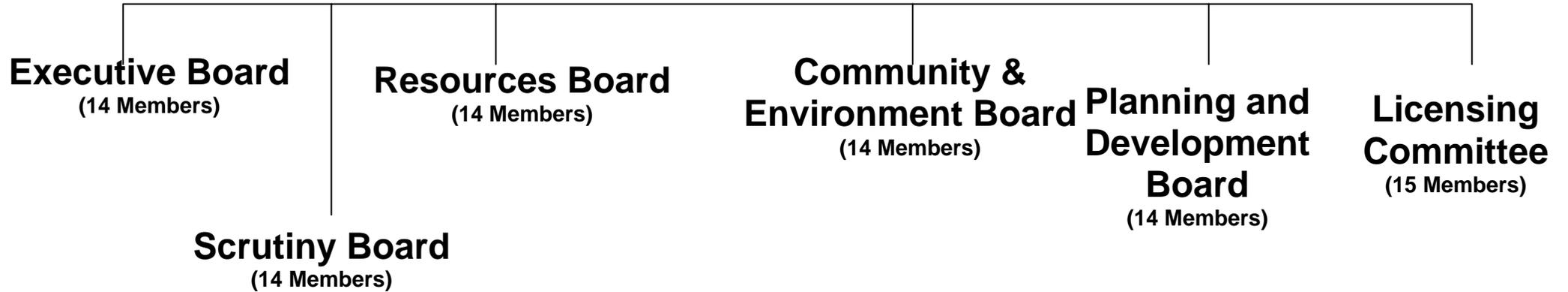
## **PART 8: CONTENTS**

### **DEMOCRATIC STRUCTURE AND MEMBER JOB SPECIFICATIONS**

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# COUNCIL

(35 Members)



**Area Forums x 4**

**Standards Committee** (up to 10 Members, including 3 Independents and 2 Parish/Town Councillors)

**Independent Panel - Members Allowances**

**Portfolio Holders x 7**

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR**  
**LEADER OF THE COUNCIL**

**General Principles and Role**

- 1 The Leader of the Council represents the whole Council, outside of its civic and ceremonial roles and functions, in its relations and dealings with the voluntary and business sectors; local, regional and central government; and European bodies.
- 2 The Leader of the Council shares a special responsibility with the Chief Executive for leading and guiding the Authority according to its approved vision and values and towards its key corporate objectives and priorities. The Leader will be accountable to Council for ensuring their delivery.
- 3 The Leader of the Council cannot act alone or have the power of decision except in consultation with a properly authorised Officer or together with other Members as a properly appointed Board or other body.
- 4 The Leader of the Council will be the link between the Corporate Management Team and the elected Members of the Council in the formulation and development of new policies and objectives and will report regularly to Council and Boards in order to engender corporate ownership and awareness.

**Duties and Responsibilities**

- 5 The Leader of the Council will chair meetings of the Executive Board and will have a second or casting vote in determining any issues in those meetings. Subject, where relevant, to Council approval and consultation with other Boards, the Leader will lead the Executive Board in such areas as developing the Authority's overall policy framework; developing service plans and strategies; preparing revenue and capital budgets; recommending the level of Council Tax; and other strategic, policy and performance issues.
- 6 The Leader of the Council will lead in the performance appraisal procedures for the Chief Executive and, through the Executive Board, will agree the method of appraisal, its frequency and Member participation.
- 7 The Leader of the Council may be required to attend meetings of the Scrutiny Board and be subject to examination and questioning in respect of any aspect of the Council's services, policies and its objectives.
- 8 The Leader of the Council with the Chief Executive, the Director of Resources and leading Members, will meet with the District Auditor to discuss the annual District Audit Management Letter and will report, as necessary, from there to Council or the relevant Board.

- 5 The Leader of the Council will meet regularly with the Chief Executive to monitor and review the progress of the Council towards its achieving approved objectives and priorities.
- 10 The Leader of the Council, in conjunction with the Chief Executive, will agree the business to be included in the Agenda for each meeting of the Executive Board and will attend pre-agenda and any pre-meeting briefings. The Leader has authority to agree the inclusion of late items of business on the agenda but only for reasons of urgency, which must be stipulated in the minutes.
- 11 The Leader of the Council will attend and participate in meetings of Full Council and his/her Area Forum.
- 12 The Leader of the Council may be a Member of a Steering Group, Working Party, or a Best Value Review Team or a representative on an outside body.
- 13 In addition to the above duties, the Leader of the Council will undertake:
- A The “Representative Role” described at item 16 of Job Description at Appendix D, namely:-
- a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
    - i) meet or visit them
    - ii) attend site meetings or inspections
    - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
    - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
  - b) conduct Ward business by correspondence, telephone, meetings and email.
- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:
- Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:
- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
  - attending Parish/Town Council meetings;
  - direct canvassing of Ward residents on particular issues
- Through these methods Councillors will play a significant part in the consultations on:
- the development of local performance plans;
  - fundamental reviews of best value;
  - local initiatives, for example on community safety;
  - the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL****JOB DESCRIPTION FOR****DEPUTY LEADER AND BOARD CHAIRMAN (RESOURCES;  
COMMUNITY AND ENVIRONMENT; AND PLANNING AND DEVELOPMENT BOARDS)****General Principles**

- 1 A Deputy Leader and Board Chairman shares a special responsibility with the Leader of the Council, the Chief Executive and Directors in leading and guiding the Authority according to its approved vision and values and towards its main objectives and priorities.
- 2 A Deputy Leader and Board Chairman will be held responsible and accountable to Council and the Board for the delivery of relevant objectives and priorities through the Chief Executive, Directors and Divisional Officers,
- 3 A Deputy Leader and Board Chairman cannot act alone or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.
- 4 He or she will deputise, when requested, for the Leader of the Council and will generally assist the Leader, as and when required.

**Role, Function and Duties**

- 5 The Deputy Leader and Board Chairman will preside over meetings of his/her Board, regulating and controlling proceedings and ensuring that the sense of the meeting, with regard to any question before the meeting, is properly ascertained.
- 6 He or she has a second or casting vote in the determination of any question before the meeting.
- 7 The Deputy Leader and Board Chairman will act as spokesperson for the Board at Council – presenting Board Minutes and Reports, answering questions and replying to amendments.
- 8 The Deputy Leader and Board Chairman will attend pre-agenda briefing meetings with Officers and will be consulted upon and will assist and advise in the preparation and finalisation of business to be included on the Agenda for each meeting of the Board. He or she has authority to agree the inclusion of late items of business on an agenda for the Board meeting but only for reasons of urgency, which must be stipulated in the Minutes. He/she will also attend any pre-meeting briefings.
- 9 The Deputy Leader and Board Chairman will monitor and review, through regular meetings with the Chief Executive, Directors and Assistant Directors, as appropriate, the progress of actions to implement the approved objectives, priorities and specific decisions of the Board.

- 10 He or she may be involved in the performance appraisal procedures for the Chief Executive.
- 11 The Deputy Leader and Board Chairman may be required to attend meetings of the Scrutiny Board and be subject to examination and questioning in respect of the work or proposals of his or her Board.
- 12 The Deputy Leader and Board Chairman will be required to attend the opening of tenders for the supply of goods or services or for the execution of works.
- 13 He or she will attend and participate in meetings of full Council and his/her Area Forum.
- 14 He or she may be a Member of the Standards Committee.
- 15 In addition to the above duties, the Deputy Leader and Board Chairman will undertake:
- A The “Representative Role” described at item 16 of the Job Description at Appendix D, namely:-
- a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
    - i) meet or visit them
    - ii) attend site meetings or inspections
    - iii) seek advice from officers of the Council on legal, administrative, financial technical or procedural matters
    - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
  - b) conduct Ward business by correspondence, telephone, meetings and email.
- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:
- Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:
- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
  - attending Parish/Town Council meetings;
  - direct canvassing of Ward residents on particular issues
- Through these methods Councillors will play a significant part in the consultations on:
- the development of local performance plans;
  - fundamental reviews of best value;
  - local initiatives, for example on community safety;
  - the community planning process, generally.

## NORTH WARWICKSHIRE BOROUGH COUNCIL

**JOB DESCRIPTION FOR**  
**THE MAYOR, AS CIVIC HEAD**Main Role of the Mayor

- 1 The primary duty of the Mayor is to preside over meetings of the full Council, to preserve order in meetings and to take care to ensure that the proceedings are conducted impartially and in a proper manner.
- 2 The Mayor is elected to be the First Citizen of the Borough, its Civic Head, and will represent the Borough Council at Ceremonial, Civic and other functions inside and outside the Borough, will receive civic guests, delegations and visitors; host civic occasions and provide civic hospitality.
- 3 The Mayor cannot act alone or have the power of decision except in consultation with a properly authorised Officer or together with other Members as a properly appointed Board or other body.

**Duties and Responsibilities**

- 4 If present, the Mayor must preside at meetings of the full Council and, specifically, it is the Mayor's responsibility, with the assistance of the Chief Executive:
  - (a) to determine that the meeting is properly constituted and that a quorum is present;
  - (b) to inform himself/herself as to the business and objectives of the meeting;
  - (c) to preserve order in the conduct of those present;
  - (d) to confine discussion within the scope of the meeting and within the time limits provided in the Standing Orders;
  - (e) to decide whether proposed motions and amendments are in order;
  - (f) to formulate for discussion and decision questions which have been moved for the consideration of the meeting;
  - (g) to decide points of order and other incidental questions which require decision at the time;
  - (h) to ascertain the sense of the meeting by:
    - i putting relevant questions to the meeting and taking a vote thereon;
    - ii causing a named vote or ballot to be taken if duly demanded;
    - iii if necessary and if so minded giving a second or casting vote;
    - iv declaring the result
  - (i) with the consent of Council, to adjourn the meeting when circumstances justify or require that course;

- (j) To declare the meeting closed when its business has been completed.
- 5 The Mayor has authority to agree the inclusion of late items of business on an agenda for full Council but only for reasons of urgency, which must be stipulated in the Minutes.
- 6 The Mayor will be expected to take the lead in all matters that concern the civic life of the Borough.
- 7 The Mayor will at all times remain impartial in party political matters.
- 8 The Mayor will be available to represent the Borough, at all times within reason, at events and functions both inside and outside the Borough.
- 9 The Mayor will host civic events within the Borough, including, in particular, an Annual Civic Service and an Annual Civic Reception.
- 10 The Mayor will conduct him/herself in a proper and dignified manner at all times as befits the Office of Mayor.
- 11 The Mayor will attend meetings of his/her Area Forum.
- 12 In addition to the above duties, the Mayor will undertake:
  - A The “Representative Role” described at item 16 of the Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) Conduct Ward business by correspondence, telephone, meetings and email.
  - B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:
 

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR A WARD COUNCILLOR, WHO IS NOT**

**THE LEADER OF THE COUNCIL; A DEPUTY LEADER AND BOARD CHAIRMAN;**

**OR THE MAYOR**

**General Purpose**

- 1 To represent the community and the individual and be a channel through which their needs are considered, addressed or met, by contributing to the development and formation of proposals and policies for services and service delivery.
- 2 To scrutinise, keep under review, monitor and hold to account the performance of Boards and other bodies, in the light of agreed policies, targets and standards.
- 3 To be a party to the process of developing and setting Council policy.

**The Corporate Role**

These general purposes will be achieved by individual Councillors through their Membership of and input into:

- 4 **Full Council** which will
  - be the principal forum for debate for matters of community and public interest;
  - determine the overall policies and finances which will guide and direct the delivery of services;
  - appoint and hold to account its Boards, the Leader of the Council and Chief Executive and Directors for the effective and efficient delivery of services in accordance with the agreed policies.
- 5 **Scrutiny Board** which will
  - consider and investigate broad policy issues and make reports to the relevant Boards or the Council as appropriate;
  - consider the budget plans, proposed policy framework and other plans of the Authority, and make reports and recommendations, including recommendations proposing amendments, to Boards and the Council, as appropriate;
  - provide advice to Boards on major issues before final decisions are made.
  - review decisions taken by Boards and how they are implementing Council policies, and make reports and recommendations, including proposals for changes to policies or practices, to the Boards or Council, as appropriate.

6 **Planning and Development Board and Licensing Panel**, which will be the decision-making bodies in respect of such areas as:

- planning applications, development control and building control.
- licensing and appeals

7 **Area Forums** which will:

- consider local issues
- develop ways of getting feedback and involvement from local people, communities and organisations on public services and public issues
- become a voice for local communities on issues concerning their areas, feeding into other Forums, Committees, Councils, public agencies

8 **Standards Committee Member (See Appendix E)**

9 **Consultation**

In addition to their Membership of and input into the above bodies, Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

10 Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

### **Functional Role**

11 Each Councillor will be a full voting Member of the Council, which includes the Leader and the Mayor and Deputy Mayor of the Borough.

12 Councillors will serve on the Scrutiny Board to which they are appointed.

13 All Councillors will serve on their appropriate Area Forum.

14 Councillors may be appointed to the Planning and Development Board and to the Standards Committee.

15 Any Councillor may be appointed to represent the Council on outside bodies.

#### Representative Role

16 In addition to the above duties, Members will:-

- a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
  - i) meet or visit them
  - ii) attend site meetings or inspections
  - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
  - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
- b) conduct Ward business by correspondence, telephone, meetings and email.

## NORTH WARWICKSHIRE BOROUGH COUNCIL

**JOB DESCRIPTION FOR****A PORTFOLIO HOLDER**General Principles

- 1 A Portfolio Holder's main role is to ensure that his/her designated areas of responsibility (whether for a key cross-cutting theme or for a specific function) are properly dealt with by all parts of the Council's democratic process and at all levels of the organisation.
- 2 A Portfolio Holder cannot act alone or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.

**Role, Function and Duties**

- 3 A Portfolio Holder will be the Council's Lead Member and spokesperson on the areas of responsibility assigned to him/her and will promote, defend and explain policies and actions associated with them.
- 4 In undertaking such duties, a Portfolio Holder will liaise as necessary with the Leader of the Council, the relevant Board Chairman, the Chief Executive, appropriate Directors and Assistant Directors.
- 5 A Portfolio Holder will attend and participate in meetings of full Council and his/her Area Forum. He or she will also have an automatic right to attend any meeting in order to explain or present a cross-cutting issue, implication or any effect in relation to the subject matter under discussion.
- 6 A Portfolio Holder may be a Member of the Standards Committee; and the Planning and Development Board.
- 7 A Portfolio Holder will chair the relevant Portfolio Group and may be the Council's representative on the relevant Local Area Agreement Theme group, Local Strategic Partnership Theme Group or a representative on an Outside Body.
- 8 In addition to the above duties, the Portfolio Holder will undertake:
  - A The "Representative Role" described at item 17 of the Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion

b) conduct Ward business by correspondence, telephone, meetings and email.

B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL****JOB DESCRIPTION FOR****CHAIRMAN OF THE SCRUTINY BOARD****General Principles**

- 1 A Chairman of the Scrutiny Board has responsibility for leading and guiding his/her Board in:-
  - a) investigating a range of policy issues from other Council Boards and bodies;
  - b) considering budget plans, policy framework and other plans;
  - c) providing information and advice to other Boards on major issues to assist them in developing policy;
  - d) reviewing decisions taken by other Boards and Officers; holding them to account; and examining how they are implementing Council policies;
  - e) drawing up a work plan for his/her Board's overview and scrutiny programme for the year; and
  - f) responsibility for Best Value work and overseeing reviews.
- 2 A Chairman of the Scrutiny Board will be held responsible and accountable to Council and the Board for the delivery of relevant objectives and priorities through the Chief Executive, Directors and Assistant Directors.
- 3 A Chairman of the Scrutiny Board cannot act alone or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.

**Role, Function and Duties**

- 4 The Scrutiny Board Chairman will preside over meetings of the Board, regulating and controlling proceedings and ensuring that the sense of the meeting, with regard to any question before the meeting, is properly ascertained.
- 5 The Scrutiny Board Chairman has a second or casting vote in the determination of any question before the meeting.
- 6 He/she will act as spokesperson for the Board at Council – presenting the Minutes and Reports, answering questions and replying to amendments.
- 7 He/she may act as spokesperson for his/her Board in explaining, defending or promoting the work of the Board.
- 8 He/she will attend pre-agenda meetings with Officers and will be consulted upon and will assist and advise in the preparation and finalisation of business to be included on the Agenda for each meeting of the Board. This includes authority to agree the inclusion of late items of business on an agenda for the Board meeting but only for reasons of urgency, which must be stipulated in the Minutes. He/she will also attend any pre-meeting briefings.
- 9 He/she will monitor and review the progress of actions to implement the approved objectives, priorities and specific decisions of the Board.

- 10 He/she may be involved in the performance appraisal procedures from the Chief Executive.
- 11 He/she will chair meetings of the Board in examining and questioning the Chairmen of other Boards and Officers in respect of services or activities under review by the Scrutiny Board and hold them to account.
- 12 He/she will attend and participate in meetings of full Council and his/her Area Forum.
- 13 The Chairman may be a Member of the Standards Committee.
- 14 In addition to the above duties, he/she will undertake:
- A The “Representative Role” described at item 16 of the Job Description at Appendix D, namely:
- a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
- i) meet or visit them
  - ii) attend site meetings or inspections
  - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
  - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion

- b) conduct Ward business by correspondence, telephone, meetings and email.

- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL****JOB DESCRIPTION FOR A****STANDARDS COMMITTEE MEMBER****Main Role**

- 1 The main role of a Standards Committee Member is to promote and maintain high standards of conduct and to see that the Authority's Codes of Conduct are observed, having regard to the provisions of Part III of the Local Government Act, 2000.

**Duties and Responsibilities**

- 2 A Standards Committee Member will be responsible for:-
- a) promoting and maintaining high standards of conduct by Members and co-opted Members of the Authority;
  - b) assisting Members and co-opted Members to observe the Authority's Code of Conduct;
  - c) advising the Authority on the adoption or revision of a Code of Conduct;
  - d) monitoring the operation of the Authority's Code of Conduct;
  - e) advising, training or arranging to train Members and co-opted Members on matters relating to the Authority's Code of Conduct;
  - f) considering reports or matters referred to it by the Council's Monitoring Officer, or in his/her absence, the Deputy Monitoring Officer, or the Standards for England
  - g) supervising the Code of Conduct for Council Employees, the Members/Officers Protocol, the Complaints and Compliments Procedure, the Whistle-Blowing Policy and Ombudsman Complaints;
  - h) acting as a Standards Committee for the Parish and Town Councils within the Borough, under Section 55 of the Local Government Act, 2000, and exercising the powers set out in that section;
  - i) such other functions that the Borough Council may delegate to the Committee (such as involvement in outside companies and bodies, Member allowances, review of complaints procedures and Ombudsman's determinations etc).

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR**  
**VICE-CHAIRMAN OF A BOARD**

**General Principles**

- 1 A Board Vice-Chairman's main role is to deputise for the Chairman of the Board and to preside at meetings at which the Chairman is unable to attend.
- 2 He/she will also stand in for the Chairman, as required, at other meetings and events and will assist the Chairman with such of the duties of that post as he/she may require.
- 3 A Vice-Chairman cannot act alone, or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.

**Role, Function and Duties**

- 4 The Vice-Chairman will attend pre-agenda meetings and any pre-meeting briefings with the Chairman and Officers.
- 5 Whilst deputising or standing in for the Board Chairman (see items 1 and 2 above), the Vice-Chairman will undertake the relevant duties of the Chairman, as set out in items 5 to 15 of Appendix B.
- 6 In addition to the above duties, the Vice-Chairman will undertake:
  - A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) conduct Ward business by correspondence, telephone, meetings and email.
  - B The "Consultation" work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**  
**JOB DESCRIPTION FOR**  
**THE LEADER OF THE SECOND LARGEST GROUP**  
**OR LARGEST OPPOSITION GROUP**

**General Principles and Role**

- 1 The Leader of the Second Largest Group or Largest Opposition Group will act as leader and spokesperson for his/her group on the Council and, when necessary, will challenge the policies, performance and activities of the controlling group on the Council.
- 2 He/she cannot act alone or have the power of decision except in consultation with other Members as a properly appointed Board or other body.

**Duties and Responsibilities**

- 3 He/she may be involved in the performance appraisal procedures for the Chief Executive.
- 4 He/she with the Leader of the Council, leading Members and the Chief Executive and the Director of Resources will meet with the District Auditor to discuss the annual District Audit Management Letter.
- 5 He/she will attend and participate in meetings of Full Council and his/her Area Forum.
- 6 He/she may be a Member of the Standards Committee; the Scrutiny Board; and the Planning and Development Board.
- 7 He/she may be a Member of a Steering Group, Working Party or a Best Value Review Team or a representative on an outside body.
- 7 In addition to the above duties, he/she will undertake:
  - A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) conduct Ward business by correspondence, telephone, meetings and email.

- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

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- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR**

**THE DEPUTY LEADER OF THE SECOND LARGEST GROUP  
OR LARGEST OPPOSITION GROUP**

**General Principles and Role**

- 1 The main role of the Deputy Leader of the Second Largest Group or Largest Opposition Group on the Council is to deputise for his/her Group Leader, as and when necessary, and assist him/her with such of the duties of that post as the Group Leader may require (The Group Leader's full duties are set out at Appendix I).
- 2 He/she will also stand in for his/her Group Leader at other meetings and events.
- 3 He/she cannot act alone, or have the power of decision except in consultation with other Members as a properly appointed Board or other body.

**Duties and Responsibilities**

- 4 He/she may be involved in the performance appraisal procedures for the Chief Executive.
- 5 He/she will attend and participate in meetings of Full Council and his/her Area Forum.
- 6 He/she may be a Member of the Standards Committee; the Scrutiny Board; and the Planning and Development Board.
- 7 In addition to the above duties, he/she will undertake:
  - A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) conduct Ward business by correspondence, telephone, meetings and email.

- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.