

LEICESTER CITY COUNCIL

CONSTITUTION

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Part 1: Introduction

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

Part One - Introduction to the Council Constitution

1) What is the Constitution

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

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

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

2) How the Council works

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

The City Mayor, Mayoral Team and the Executive

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

Full Council

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

All Councillors and the City Mayor meet together as the Full Council. These meetings are open to the public and the press and are also broadcast live on the Council's webcast facility [link]. Sometimes the Council considers personal or confidential matters and it can choose to do so in private if appropriate.

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

Conduct and Behaviour

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

3) How decisions are made

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

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

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

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

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

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

4) How the Council is scrutinised

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

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

5) Council Staff

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

6) Citizens’ Rights

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

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

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

Citizens have the right to:

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

7) Structure of the Constitution

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

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

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

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

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

Part 4 - Procedure Rules

Part 5 - Political Conventions and Codes of Conduct

Part 6 – Members' Allowances Scheme

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

LEICESTER CITY COUNCIL

CONSTITUTION

Part 2

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

Part Two – Articles of the Constitution

Introduction

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

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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

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

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.04 Interpretation and review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution, as set out in Article 15.

Article 2 – Members of the Council

2.01. Composition and Eligibility

(a) Composition

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

(b) Eligibility

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

2.02. Election and Terms of Councillors

Election arrangements and terms of office are determined by legislation and the Electoral Commission. Currently, the regular election of the City Mayor and Councillors will be held on the first Thursday in May every four years beginning in 2011. The terms of office of the City Mayor and Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03. Roles and Functions of the City Mayor and all Councillors

(a) Key Roles

City Mayor:-

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

The City Mayor and All Councillors:-

- (i) are collectively the ultimate policy-makers and carry out a number of strategic and corporate functions;

- (ii) contribute to the good governance of the City, by representing their communities and bringing their views into the Council's decision-making process and encouraging community participation and citizen involvement;
- (iii) represent the whole community, with a special responsibility for Councillors to represent the interests of their ward and its individual constituents, whether or not they voted for them.
- (iv) participate in the governance and management of the Council;
- (v) are available to represent the Council on other bodies; and,
- (vi) will maintain the highest standards of conduct and ethics.

(b) **Rights and Duties**

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

2.04 Conduct

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

enabling the matter to be dealt with otherwise than by themselves. Equally, they must not attend any meeting at which that matter falls to be further discussed.

2.05 Allowances

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

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Article 3 – Citizens and the Council

3.01 Citizens' Rights

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

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

3.02 Citizens' Responsibilities

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

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

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Article 4 – The Full Council

4.01 Introduction

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

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

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

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

4.02 Functions of the Full Council

The following functions are the responsibility of Full Council:

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

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

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

4.03 Definitions

(a) Policy Framework

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

- (i) reserved to Full Council as required by law:
 - Corporate Plan (Best Value Performance Plan)
 - Library Strategy (Annual Library Plan)
 - Leicester Children and Young People's Plan (Children's Services Plan)
 - Community Strategy (Sustainable Community Strategy)
 - Early Years Development Plan
 - Education Development Plan
 - Local Transport Plan
 - Plans and strategies which together comprise the Development plan
 - Youth Justice Plan
 - Community Safety Partnership Plan (Crime and Disorder Reduction Strategy)
 - Community Care Plan

- Annual Performance Plan
- Treasury strategy, insofar as it includes plans to control the Council's borrowing

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

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

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

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

(b) **Budget.**

The budget means the Council's Revenue and Capital programme, including the setting of Council Tax and rent levels for housing tenants

(c) **Housing Land Transfer**

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

Article 5 – The City Mayor and the Executive

5.01 The roles and responsibilities of the City Mayor

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

- i. Recommend to Full Council the Policy Framework and Council Budget for approval and any subsequent amendments;
- ii. Make all executive decisions within and in furtherance of the agreed Policy Framework and Budget;
- iii. Recommend to Full Council the making of bye-laws; and
- iv. Grant any approval under Section 85 of the Local Government Act 1972 which enables the authority to approve a member's absence from a meeting for the Authority for a period in excess of 6 consecutive months for appropriate reasons. This responsibility is delegated to the Monitoring Officer to perform in consultation with the Council.

In exercising this role the City Mayor will:

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

vii. Schedule and Chair meetings of the Executive.

5.02 Election of a City Mayor

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

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

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

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

5.03 Appointment of Deputy City Mayor and Assistant City Mayors

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

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

- a) s/he resigns from office;
- b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- c) s/he is no longer a Councillor.

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

5.04 Casual vacancies in the City Mayor and Executive roles

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

The provisions of Paragraph 1(8) of Schedule 1 of the Local Government Act 2000 shall apply if for any reason the City Mayor is unable to act in the office of City Mayor, or the office of City Mayor is vacant AND the Deputy City Mayor is unable to act or of the office of the Deputy City Mayor is vacant. In this event the Executive collectively must act in the City Mayor's place or must arrange for a member of the Executive to act in his/her place.

The provision of Article 47 of the Local Authorities (Executive and Alternative Arrangements) Modification of Enactments Order 2001 apply where the City Mayor, Deputy City Mayor or Assistant City Mayors is to be considered unable to act if he/she is either suspended from office or is unfit to act on health grounds. The provisions of Regulations 7 to 9 of the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) make provision for the filling of a casual vacancy in the office of City Mayor.

5.05 Responsibility for functions

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

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

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

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

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

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

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

- i. Any such decision can be taken in private although there are additional regulations in relation to notice for 'Key decisions' (a definition of 'Key Decisions' can be found in Rule 13 of Part 4B of this Constitution).
- ii. Regulations and guidance from Government require that decisions should be taken on the basis of due consultation and professional advice from officers. The accepted approach is via a written report.
- iii. If the issue is not a 'Key decision' the decision notice and report should be published as soon as practicable after the decision is made.
- iv. If the decision is a 'Key decision' the report must be published 5 clear days before the decision is made and the decision notice as soon as practicable after the decision is made.
- v. There will be a link from the City Mayor's Internet page to individual decision documents.
- vi. All decisions are subject to call-in unless defined as urgent.

5.06 Proceedings of the Executive

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

Article 6 – Key Decisions

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

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

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

Expenditure or savings will be regarded as significant if:

- (a) In the case of additional recurrent revenue expenditure, it is not included in the approved revenue budget, and would cost in excess of £0.5m p.a.;
- (b) In the case of reductions in recurrent revenue expenditure, the provision is not included in the approved revenue budget, and savings of over £0.5m p.a. would be achieved;
- (c) In the case of one off or capital expenditure, spending of over £1m is to be committed on a scheme that has not been specifically authorised by Council."

In deciding whether a decision is significant the City Mayor will take into account

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

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

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

7.01 Role and Function of the Lord Mayor

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

Ceremonial Role

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

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

Chairing the Council Meeting

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

7.02 Appointment of the Lord Mayor

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

7.03 Honorary Aldermen

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

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

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

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

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

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

The following criteria were approved by Full Council at its meeting on 24 November 2011 in relation to the appointment of Honorary Aldermen:

- The title of Honorary Alderman should be awarded to a Councillor at the end of their front-line political career (i.e. they should not seek public office after being awarded the title if they should do so they should forgo the title).
- It should be awarded after significant service (for the avoidance of doubt this should be a minimum of 8 years as a Councillor); and
- The Councillor should not have previously held the position of Lord Mayor as former holders of this office are already recognised by the Council and the title of Honorary Alderman is to recognise those who have contributed but not have attained the title of Lord Mayor.

Article 8 – Scrutiny Committees

8.01 Appointment of Scrutiny Committees

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

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

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

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

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

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

8.02 Role

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

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

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

8.03 Proceedings of Scrutiny Committees

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

Article 9 – Regulatory and other committees

9.01 Regulatory and other committees

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

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Article 10 – The Standards Committee

10.01 Standards Committee

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

10.02 Role and Function

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

10.03 Composition

Membership

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

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

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

Quorum

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

10.04 Independent Members

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

10.05 Chairing the Committee.

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

Article 11 – Ward Community Meetings

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

11.01 Ward Community Meetings (Area Forums)

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

11.02 Access to information

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

11.03 Executive members

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

11.04 Rules of Procedure

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

Article 12 – Joint Arrangements

12.01 Arrangements to promote well being

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

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

12.02 Joint arrangements

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

12.03 Access to information

- a. The Access to Information Rules in Part 4 of this Constitution apply to joint committees.
- b. If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- c. If the joint committee contains members who are not on the Executive of any participating authority then the Access to Information Rules in Part VA of the Local government Act 1972 will apply.

12.04 Delegation to and from other local authorities

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

12.05 Contracting out

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

Article 13 - Officers

13.01 Management structure

- a. **Officers:** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The current respective functions and areas of responsibility of its most senior officers are shown in Parts 3 and 7 of this Constitution.
- b. **Head of Paid Service, Monitoring Officer and Director of Finance.** These roles are currently:-

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

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

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

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

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

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

13.02 Functions of the Head of Paid Service

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

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

13.03 Functions of the Monitoring Officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Director of Finance, the Monitoring Officer will report to the Full Council or to the City Mayor in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The Monitoring Officer will also give a ruling in cases where a Councillor queries their 'need to know' in relation to a request for information.
- b. **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Council's Standards Committee.
- c. **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of any case tribunals.
- d. **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- e. **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions are in accordance with the budget and policy framework.
- f. **Providing advice.** The Monitoring Officer will provide advice on the scope and powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all councillors.
- g. **Proper Officer for access to information.** The Director of Delivery, Communications and Political Governance will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- h. **Restrictions on functions.** The Monitoring Officer cannot be the Director of Finance or the Head of the Paid Service.

13.04 Functions of the Director of Finance

- a. **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council or to the City Mayor in relation to an executive function and the Council's external auditor if he or she

considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency of if the Council is about to enter an item of account unlawfully.

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

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

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

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

- a. **Maintaining the Constitution.** The Director of Delivery, Communications and Political Governance will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.

13.07 Proper Officer appointments

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

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

- (i) **The Director of Finance** is the Proper Officer for the acceptance of payment of all money due from an officer under Section 115(2) of the Local Government Act 1972.
- (ii) **The Team Leader (Commercial Standards)** in the Environment, Regeneration and Development Department is the Proper Officer for the

purposes of the "Chief Inspector of Weights and Measures" under the Weights and Measures Act 1985.

(iii) **Monitoring Officer:**

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

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

Local Government Act 1972

S229(5)	Giving a certificate in relation to a photographic copy of a document.
S234(1)	The authentication of documents.
S238	The giving of a certificate in relation to evidence of bye-laws.

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

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

13.08 Conduct

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

13.09 Employment

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

Article 14 – Decision-making

14.01 Responsibility for decision making

The Council will determine and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas of functions. This record is referred to as the City Mayor's Scheme of Delegation, and the current record is shown in detail on the City Mayor's Internet page.

14.02 Principles of decision making

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

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

14.03 Types of decisions

- a. **Council:** Full Council has reserved certain matters to itself for decision making either because of legal requirements or as a matter of local choice. Decision making on matters other than those reserved to Council as a matter of law can be taken by the City Mayor. Matters not reserved are delegated.
- b. **City Mayor:** the City Mayor is responsible for all executive decisions but can delegate decision making to the Deputy City Mayor or Assistant City Mayors or to a Committee or Officer. As in the case of Council, matters not reserved are delegated (ie as defined in the City Mayor's Scheme of delegation or to the appropriate Director)..
- c. **Officers:** In practice, unless reserved by the City Mayor, day to day Council decisions are made by officers on his behalf. In practice the Head of Paid Service and Directors can make arrangements for the discharge of responsibilities delegated to them by other persons on their behalf.
- d. **Key decisions:** A Decision maker, whether it is the City Mayor, Deputy City Mayor, Assistant City Mayors, the Executive, a committee or an officer, may only make a Key Decision in accordance with the requirements of the City Mayor & Executive Procedure Rules set out in Part 4D of this Constitution.

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

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

14.04 Decision making procedure rules

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

14.05 Decision making by Council bodies acting as tribunals

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

14.06 Record of decisions

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

Article 15 – Finance, Contracts and Legal Matters

15.01 Financial management

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

15.02 Contracts

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

15.03 Legal proceedings

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

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

15.04 Authentication of documents in legal proceedings

Where a document is necessary in any legal procedure and proceedings on behalf of the Council, it will be signed by the Monitoring Officer, the Principal Solicitor Social Care & Safeguarding, the Principal Solicitor Commercial & Contracts, the Principal Solicitor Employment, Education & Litigation, the Principal Solicitor Regulatory, and the Principal Solicitor Capital unless any enactment otherwise authorises, or requires, or the Council has given the requisite authority to some other person.

15.05 Authority to sign contracts and other documents

The Head of Paid Service, the Monitoring Officer, the Principal Solicitor Social Care & Safeguarding, the Principal Solicitor Commercial & Contracts, the Principal Solicitor Employment, Education & Litigation, the Principal Solicitor Regulatory, and the Principal Solicitor Capital and such other persons as the Council, City Mayor or the Monitoring Officer may nominate, are authorised to sign the following on behalf of the Council:

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

Strategic or Divisional Directors or such other officers as Directors may nominate, are authorised to sign small contracts/ agreements as defined in the Contract

Procedure Rules where the contract/ agreement is on a Council Order Form or is in a standard form which has been endorsed as approved by the City Barrister and Head of Standards or other authorised officer for use in such circumstances.

15.06 Executive function contracts

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

15.07 Changes to arrangements

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

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Article 16 – Review and revision of the Constitution

16.01 Duty to monitor and review the Constitution

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

16.02 Changes to the Constitution

- a. **Approval.** Changes to the Constitution will only be approved by the Full Council, save that the Monitoring Officer shall be empowered to make minor and consequential amendments to it from time to time, after consultation with the Elected Mayor, for the purposes of ensuring its lawfulness and consistency.
- b. **Changing the form of the Executive.** Before drawing up a proposal for a different form of the Executive, the Council must follow any process defined in Statute and take reasonable steps to consult with local electors and other interested parties in Leicester.
- c. **Other changes.** Before the Council draws up proposals for different Executive arrangements which have previously been subject to consultation, and which involve any changes other than a change in the form of executive, the Council must follow any process defined in Statute and consult local electors, and other interested parties. Consultation will be proportionate in scale, scope and extent to the scale of the proposed changes to executive arrangements.

Article 17 – Suspension, Interpretation and Publication

17.01 Suspension of the Constitution

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

17.02 Interpretation

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

17.03 Publication

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

LEICESTER CITY COUNCIL

CONSTITUTION

Part 3

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

PART 3 - RESPONSIBILITY FOR FUNCTIONS

INTRODUCTION

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

FULL COUNCIL FUNCTIONS

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

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

LOCAL CHOICE FUNCTIONS

The Law provides that the Council has discretion whether to allocate certain functions and responsibilities to the City Mayor or to the Council. These functions are referred to as "Local Choice" Functions. Below is a Schedule showing how the Council has currently decided to allocate these functions between the Council and the City Mayor.

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

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

FUNCTION	RESPONSIBLE BODY
Section 60 (contribution towards provision of recreational facilities) Section 80 (insurance of visiting pupils) Section 83 (power to provide information) Section 84 (publication of bulletins etc) Section 85 (certain particulars to be furnished in writing) Section 86 (evidence of confirmation of committee decisions etc) Section 87 (training arrangements) Section 88 (recording of documents) Section 89 (microfilming of documents) Section 90 (restriction on use of armorial bearings)	
3. Leicestershire Act 1985: Making of byelaws Any other matter under the Leicestershire Act not covered above.	Full Council
4. Making arrangements for appeals against exclusion of pupils – section 67 of the School Standards and Framework Act 1998 (<i>“the 1998 Act”</i>).	City Mayor
5. Appointment of review panels established under regulations made under Sub-Section 4 of Section 34 (determination of claims and reviews) of the Social Services Act 1998	City Mayor
6. Making arrangements for admission appeals – section 94 of the 1998 Act	City Mayor
7. Making arrangements for appeals by governing bodies – section 95 of the 1998 Act.	City Mayor
8. Making of arrangements for questions on police matters at meetings of the Council	Council
9. Appointments to the Police Authority (the Council makes nominations to a Joint Appointing Committee)	City Mayor
10. Any function relating to contaminated land, other than policy matters reserved for Full Council.	City Mayor
11. Control of pollution and the management of air quality	City Mayor
12. Control, inspection and investigation in relation to noise and other statutory nuisances.	City Mayor
13. Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land; Obtaining information under section 16 of the Local Government (miscellaneous Provisions) Act 1976 as to persons interested in	

FUNCTION	RESPONSIBLE BODY
land. a. in connection with functions which are the responsibility of the City Mayor. b. in connection with functions which are not the responsibility of the City Mayor.	a. City Mayor b. Planning & Development Control Committee
14. Making agreements for execution of highways works.	City Mayor
15. Making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	City Mayor
16. The appointment of any individual: a) To any office rather than the office in which he is employed by the Authority b) To any body other than: I. The Authority II. A joint committee of two or more authorities c) To any committee or sub-committee of such body. And the revocation of such appointments	a. City Mayor b. Council Council has delegated this function to the Director of Delivery, Communications and Political Governance in consultation with Group Whips / Independent Members

OTHER COUNCIL FUNCTIONS

1. Council functions which are not reserved to Full Council can be delegated to committees and/or officers.
2. The Council has established Regulatory Committees, a Planning & Development Control Committee, an Employees Committee, a Standards Committee, an Audit and Risk Committee, a Licensing Committee, together with Sub-Committees and an Employees Committee. These are standing committees which the Council can vary from time to time.
3. Committees can delegate to Officers. Where matters are not specifically reserved to Council or a Committee, they are delegated to the Head of Paid Service or *Director who has responsibility for the relevant function.
4. All Council functions which have not been placed within the remit of one of its committees, and which have not been reserved to Full Council are delegated to the Head of Paid Service or Director who has responsibility for the relevant function.

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

* “Director” means Strategic and Divisional Directors

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PLANNING AND DEVELOPMENT CONTROL COMMITTEE

TERMS OF REFERENCE

1. To keep under review and be responsible for the implementation of all new legislation relating to the discharge of its functions.
2. To keep under review, comment and advise on policies proposed or made through executive powers.
3. To carry out the development control function of the Council as local planning authority.
4. To carry out the non-executive highways function of the Council.
5. To promote and secure a pattern of development in the City which is sustainable in terms of use of local and global resources.
6. To examine all proposals to acquire land for the purpose of securing planning objectives.
7. To enforce all legislation, relevant to the Committee's terms of reference, which the Council is required or empowered to enforce except matters which are executive functions.
8. To exercise the Council's power to take legal proceedings in the public interest, in respect of matters within the Committee's terms of reference.
9. To make, vary or revoke any order, regulation, plan or scheme relating to the Committee's functions.
10. To consider and make recommendations on opposed Traffic Regulation Orders.
11. To comment upon development briefs for development sites.
12. To promote and secure high standards of design in new development.
13. To consider and determine all non-executive matters concerning conservation areas and buildings of architectural or historic interest or buildings of local significance and sites of archaeological interest.
14. To give directions to prevent demolition of a building in a conservation area.
15. To make Building Preservation Orders.
16. To serve notices stating that the City Council do or do not intend to acquire land to which a planning permission relates.
17. To make Tree Preservation Orders.

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

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

MATTERS RESERVED TO THE PLANNING AND DEVELOPMENT CONTROL COMMITTEE:-

1. Matters of strategic significance relating to the Committee's Terms of Reference.
2. To recommend to Council the making of bye-laws.
3. Making opposed regulations, order, plans and schemes within the Committee's terms of reference.
4. Such other matters as the Committee may from time to time reserve to itself for decision.

LICENSING COMMITTEE

TERMS OF REFERENCE

1. To secure the health and comfort of the persons living or working in or visiting the City by requiring the observance of proper standards by persons owning or occupying property in or using the streets or other public places in the City.
2. To determine the issue of all statutory licences, approvals, certificates and consents and the maintenance of all statutory registers except in any case where a specific matter is referred to another Committee.
3. All licensing and registration functions of the Council with regard to the following:-
 - Licensing Act 2003.
 - Gambling Act 2005
 - Hairdressers and barbers.
 - Killars of and dealers in game.
 - Sale of pet animals.
 - Caravan sites.
 - Conduct of animal boarding establishments.
 - Conduct of riding establishments.
 - Hackney carriages and private hire cars and operators and their drivers.
 - House to house collections.
 - Street collections.
 - Pool Promoters.
 - Amusements with prizes.
 - Societies lotteries.
 - Exposure of goods for sale in streets (Street Trading).
 - Scrap metal dealers.
 - Dog Breeding establishments.
 - Track Betting.
 - Sex Entertainment.
 - Dangerous Wild Animals.
 - Leicester Doorwatch Scheme
4. To enforce any other non-executive licensing legislation which the Council is required or empowered to enforce.
5. To exercise the Council's power to take legal proceedings in the public interest in relation to matters within the Committee's Terms of Reference.
6. To keep under review, comment on and provide advice to the City Mayor on policies relating to licensing and registration functions of the Council.

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

MATTERS RESERVED TO THE LICENSING COMMITTEE:-

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

DRAFT

LICENSING SUB-COMMITTEE

TERMS OF REFERENCE

The Terms of Reference of the Licensing Sub-Committee shall be identical to those of the Licensing Committee with the exception of the consideration of policy issues, which the Licensing Committee has reserved to itself.

MATTERS RESERVED TO THE LICENSING SUB-COMMITTEE:-

1. All matters reserved for Member level decision as detailed in the Rules of Procedure
2. Applications for a licence or permit within the terms of reference of the Sub-Committee where an objection has been received.
3. Applications for a licence or permit within the Terms of Reference of the Sub-Committee where the Director of Environmental and Enforcement Services considers that an application should be referred to the Subcommittee for determination.

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

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

EMPLOYEES COMMITTEE

TERMS OF REFERENCE

1. To determine the terms and conditions of service on which staff hold office (including procedures for their dismissal).
2. To determine formal disciplinary, grievance, harassment and discrimination, capability, grading and sickness procedure appeals.
3. To determine the cases in which recruitment benefits (including staff houses) are to be provided.
4. In respect of all officers, when a member level decision is required, exercise discretion in relation to superannuation benefits and contributions, extensions of service, gratuities and applications to serve after retirement age.
5. To undertake the recruitment of and oversee the appointment, training, transfer between departments, promotion, relegation and dismissal (all subject to legislative constraints regarding statutory officers) in respect of:
 - i. The Head of Paid Service
 - ii. Strategic Directors
 - iii. Divisional Directors
 - iv. And any officer who reports directly to a Strategic Director, or Head of Paid Service for all or most of their duties (excluding anyone whose duties are solely secretarial or clerical or otherwise in the nature of support services)
6. To designate one of the Council's officers as the Monitoring Officer as required by section 5(1) of the Local Government and Housing Act, 1989, in accord with the Council's Officer Employment Procedure Rules and all other legal requirements.
7. To appoint one of the Council's officers as Director of Finance, being an officer responsible for the proper administration of the Council's financial affairs as required by section 151 of the Local Government Act, 1972, the appointment to be made in accord with the Council's Officer Employment Procedure Rules and all other legal requirements.
8. To appoint Proper Officers on behalf of the Council for all statutory purposes further to Section 270(3), Local Government Act, 1972.

Membership

1. Employees Committee shall be a panel of five members appointed by the Monitoring Officer in consultation with the City Mayor or political group whips, as appropriate.
2. The maximum number of the Committee when it sits to hear any appeal shall be five, comprising the Chair and four panel members.

3. The Committee shall be subject to the rules on political balance.
4. The Committee's quorum shall be three.
5. Upon appointment the City Mayor or political group whips as appropriate shall determine, in consultation with the Monitoring Officer who shall be appointed as Chair of the meeting.
6. The Monitoring Officer, (or in her or his absence or ability to act her/his) Deputy will call all meetings of the Committee and determine the venue and time of the meeting.
7. The Chair of the meeting shall be consulted by the Monitoring Officer as to the business to be transacted at the meeting.

DRAFT

AUDIT & RISK COMMITTEE

1. Constitution

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

2. Membership

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

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

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

3. Attendance at Meetings

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

4. Frequency of Meetings

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

5. Duties

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

6. Authority

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

The Committee is authorised by the Council to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-

operate with any request made by the Committee. The Committee will advise the Chief Operating Officer as the Head of Paid Service if it has exercised this authority to seek information (other than routine information) from any employee, setting out the information required and the circumstances underlying the request.

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

7. Communications

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

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

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

An annual report of the Committee's activity will be submitted to the Council each year.

Duties of the Audit & Risk Committee

1. Audit Framework

1.1 Internal Audit

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

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

1.2 External Audit

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

2. Risk Management Framework

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

3. Internal Control and Governance Framework

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

- To review regular reports from Internal Audit and Risk Management on risk and internal controls, considering:
 - The effectiveness of systems of internal control across the Council
 - Reports on major control issues and their impact on the Council's risk profile.
- To consider and decide on appropriate actions relating to the Council's compliance with its own and other published or regulatory policies, standards and controls, including:
 - Information assurance including compliance with the Data Protection Act;
 - Freedom of Information Act;
 - Health & Safety at Work;
 - The Disclosure Policy
 - Complaints;
 - Raising Concerns at Work; and
 - Others as appropriate.

4. Financial Reporting Framework

- To review and approve the Council's published financial statements, the external auditor's annual opinion and other reports to Members and to monitor management action in response to issues raised.
- To review and approve the annual statement of accounts and the annual Letter of Representation on behalf of the Council, giving particular attention to critical accounting policies and practices, decisions requiring a significant element of judgement, how any unusual transactions should be disclosed and the clarity of the disclosures.
- To bring to the attention of the Council any concerns arising from the financial statements or from the audit.

5. Other Matters

- To consider, approve or make recommendations in respect of any other matters referred to it by the City Mayor, Chief Operating Officer (as the Head of Paid Service) or a Director or any Council body.
- To consider any relevant matters reserved for Member-level decision as detailed in Rules of Procedure.
- To present an annual report to the Council on the Committee's conduct, business and effectiveness.

STANDARDS COMMITTEE

TERMS OF REFERENCE

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

- Composition - The Standards Committee shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted non-voting members of the Standards Committee, and it shall be chaired by an Elected Councillor. The Councillor make-up of the Committee will, wherever possible, reflect the political balance of the Council
- Quorum – The quorum for a meeting of the Standards Committee shall be three Councillor Members
- Frequency of Meetings –The Standards Committee will meet as and when required.

11. The Standards Advisory Board:

- Composition - The Standards Advisory Board shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted voting members of the Board, and it shall be chaired by an Independent Member.
- Quorum – The quorum for a meeting of the Board shall be three, with a majority or equal number of Independent Members (with the Independent Chair having the casting vote)
- Frequency of Meetings –The Standards Advisory Board will meet as and when required.

12. The role of the Independent Person (IP) – the Independent Person is not a member of either the Standards Committee or the Standards Advisory Board. He/she remains completely neutral to the political and scrutiny process, and works closely with the City Barrister on individual complaints at the initial decision and review phases. He/she does remain a standing invitee to meetings of the Committee and the Board, and will also attend Board meetings to offer advice on the progression of individual complaints, which may or may not be adopted by the Board

Matters Reserved to the Committee:

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

LEICESTER CITY HEALTH AND WELLBEING BOARD

Terms of Reference

Introduction

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

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

1 Aim

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

2 Objectives

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

3 Responsibilities

- 3.1 Working jointly, to identify current and future health and wellbeing needs across Leicester City through revising the Joint Strategic Needs Assessment (JSNA) as and when required. Preparing the JSNA is a statutory duty of Leicester City Council and Leicester City Clinical Commissioning Group.
- 3.2 Develop and agree the priorities for improving the health and wellbeing of the people of Leicester and tackling health inequalities.
- 3.3 Prepare and publish a Joint Health and Wellbeing Strategy (JHWS) that is evidence based through the work of the Joint Strategic Needs Assessment (JSNA) and supported by all stakeholders. This will set out strategic objectives, ambitions for achievement and how we will be jointly held to account for delivery. Preparing the JHWS is a statutory duty of Leicester City Council and Leicester City Clinical Commissioning Group.
- 3.4 Save in relation to agreeing the JSNA, JHWS and any other function delegated to it from time to time, the Board will discharge its responsibilities by means of recommendation to the relevant partner organisations, who will act in accordance with their respective powers and duties
- 3.5 Ensure that all commissioners of services relevant to health and wellbeing take appropriate account of the findings of the Joint Strategic Needs Assessment and demonstrate strategic alignment between the JHWS and each organisation's commissioning plans.
- 3.6 Ensure that all commissioners of services relevant to health and wellbeing demonstrate how the JHWS has been implemented in their commissioning decisions.
- 3.7 To monitor, evaluate and annually report on the Leicester City Clinical Commissioning Group performance as part of the Clinical Commissioning Groups annual assessment by the national Commissioning Board.

- 3.8 Review performance against key outcome indicators and be collectively accountable for outcomes and targets specific to performance frameworks within the NHS, Local Authority and Public Health.
- 3.9 Ensure that the work of the Board is aligned with policy developments both locally and nationally.
- 3.10 Provide an annual report from the Health and Wellbeing Board to the Leicester City Council Executive and to the Board of Leicester City Clinical Commissioning Group to ensure that the Board is publically accountable for delivery.
- 3.11 Oversee progress against the Health and Wellbeing Strategy and other supporting plans and ensure action is taken to improve outcomes
- 3.12 The Board will not exercise scrutiny duties around health and adult social care directly. This will remain the role of the relevant Scrutiny Commissions of Leicester City Council. Decisions taken and work progressed by the Health & Wellbeing Board will be subject to scrutiny by relevant Scrutiny Commissions of Leicester City Council.
- 3.13 The Board will need to be satisfied that all commissioning plans demonstrate compliance with the Equality Act 2010, improving health and social care services for groups within the population with protected characteristics and reducing health inequalities.

4 Membership

Members:

Up to three Elected Members of Leicester City Council (3)

- The Executive Lead Member for Health & Wellbeing (1)
- An Elected Member nominated by the City Mayor (1)
- An Elected Member nominated by the City Mayor (1)

Up to three representatives of the NHS (3)

- The Co -Chair of the Leicester City Clinical Commissioning Group
- The Managing Director of the Leicester City Clinical Commissioning Group (1)
- The Managing Director of the Leicestershire and Lincolnshire Local Area Team, National Commissioning Board. (1)

Up to three Officers of Leicester City Council (3)

- The Strategic Director of Adult Social Care, Health and Housing (incorporating the responsibilities of Director of Public Health and Health Improvement, and the Director of Adult Social Care) (1)
- The Strategic Director Children (Leicester City Council) (1)
- One other Senior Director from the Adult Social Care, Health & Housing Department (Leicester City Council) (1)

Up to three further representatives including Healthwatch Leicester/Other Representatives (3)

- One representative of the Local Healthwatch organisation for Leicester City
- Leicester City Basic Command Unit Commander, Leicestershire Police
- One other person that the local authority thinks appropriate, after consultation with the Health and Wellbeing Board

5 Quorum & Chair

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

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

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

- 5.3 Where any member of the Board proposes to send a substitute to a meeting, that substitute's name shall be properly nominated by the relevant 'parent' person/body, and submitted to the Chair in advance of the meeting. The substitute shall abide by the Code of Conduct.
- 5.4 The City Council has nominated the Executive Lead for Health & Wellbeing to Chair the Board. Where the Executive Lead for Health & Wellbeing is unable to chair the meeting, then one of the other Elected Members shall chair (noting that at least one other Elected Member must be present in order for the meeting to be declared quorate)

6 Voting

- 6.1 Officer members of Leicester City Council shall not have a vote. All other members will have an equal vote
- 6.2 Decision-making will be achieved through consensus reached amongst those members present. Where a vote is required decisions will be reached through a majority vote of voting members; where the outcome of a vote is impasse the chair will have the casting vote.

7 Code of conduct and member responsibilities

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

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

- 7.1 Commit to attending the majority of meetings
- 7.2 Uphold and support Board decisions and be prepared to follow through actions and decisions obtaining the necessary financial approval from their organisation for the Board proposals and declaring any conflict of interest
- 7.3 Be prepared to represent the Board at stakeholder events and support the agreed consensus view of the Board when speaking on behalf of the Board to other parties. Champion the work of the Board in their wider networks and in community engagement activities.
- 7.4 To participate in Board discussion to reflect views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery
- 7.5 To ensure that there are communication mechanisms in place within the partner organisations to enable information about the priorities and recommendation of the Board to be effectively disseminated

8 Agenda and Meetings

8.1 Administration support will be provided by Leicester City Council.

8.2 There will be standing items on each agenda to include:

- Declarations of Interest
- Minutes of the Previous Meeting
- Matters Arising
- Updates from each of the working subgroups of the Health & Wellbeing Board,

8.3 Meetings will be held quarterly (4 times a year) and the Board will meet in public and comply with the Access to Information procedures as outlined in Part 4b of the Council's Constitution

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

THE CITY MAYOR

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

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

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

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

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

CITY MAYOR & EXECUTIVE

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

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

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

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

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

WARD COMMUNITY MEETINGS

TERMS OF REFERENCE

1.1 The Purpose of a Ward Community Meetings is:

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

1.2 Objectives of the Ward Community Meeting

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

2. How the Ward Community Meetings Operate

2.1 Number of Committees

- a) There will be no more than one Community Meeting in each Ward.
- b) Ward Community Meetings may agree to form joint committees or hold joint community meetings with other wards as appropriate.
- c) The City Mayor and Executive members may attend Ward Community Meetings without invitation.
- d) The Ward Community Meeting may set up working groups to identify and achieve the priorities within the ward.

2.2 Membership

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

2.3 Invitees

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

- a) Local residents
- b) Housing Associations

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

People who attend should work or live in the ward.

2.4 Budget

- a) Each Ward will have a budget allocated to it by the City Mayor
- b) The principle for allocating resources would be to implement priorities within the ward as set out in ward action plans
- c) Additional funding may be attracted from other sources.
- d) Budget expenditure decisions must be in accordance with Council's Budget and Policy Framework, Contract and Finance Procedure rules. Legal and financial implications must be considered and taken into account.
- e) Recommendations for expenditure will be referred to the Director of Delivery, Communications and Political Governance who will consult the executive Member as appropriate.. No action or expenditure should be incurred contrary to officer advice without referral to the City Mayor.

2.5 Voting

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

2.6 Quorum

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

2.7 Meetings

- a) Where they take place, meetings should take place on at least three monthly cycles or as considered appropriate by Ward Councillors; and

- b) Where the Ward Community Meeting needs to meet to conduct formal business, the Council's committee procedure rules will apply including those relating to information, notice of meetings etc.

2.8 Agendas

- a) The Ward Community Meeting must set an agenda for each meeting by agreement between the ward councillors where possible, otherwise at the discretion of the person chairing the meeting.
- b) The meeting will be in 2 parts.
- c) The format of part 1 will encourage the engagement of local people and partner organisations on local issues. The style of the meeting will facilitate the expression of views of local people.
- d) Part 2 will operate in a more structured way in accord with the Council's committee procedure rules and deal with business items, for example allocation of the ward neighbourhood budget.

2.9 Chairing

The Committee will normally elect a Chair on an annual basis. Arrangements for chairing will be confirmed at each agenda meeting. If the Chair is not present at a Ward Community Meeting, another Councillor for the ward shall chair.

SCRUTINY COMMITTEES: TERMS OF REFERENCE

SCRUTINY COMMITTEES - INTRODUCTION

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

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

Scrutiny Committees may:-

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

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

- Overview Select Committee (OSC)
- Adult Social Care Scrutiny Commission

- Children, Young People and Schools Scrutiny Commission
- Economic Development, Transport and Tourism Scrutiny Commission
- Health and Wellbeing Scrutiny Commission
- Heritage, Culture, Leisure and Sport Scrutiny Commission
- Housing Scrutiny Commission Transport and Climate Change Commission
- Neighbourhood Services and Community Involvement Scrutiny Commission

SCRUTINY COMMITTEE: OVERVIEW SELECT COMMITTEE

The Overview Select Committee **will**:

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

SCRUTINY COMMISSIONS

Scrutiny Commissions **will**:

- Be aligned with the appropriate Executive portfolio.
- Normally undertake overview of Executive work, reviewing items for Executive decision where it chooses.
- Engage in policy development within its remit.
- Normally be attended by the relevant Executive Member, who will be a standing invitee.
- Have their own work programme and will make recommendations to the Executive where appropriate.
- Consider requests by the Executive to carry forward items of work and report to the Executive as appropriate.
- Report on their work to Council from time to time as required.
- Be classed as specific Scrutiny Committees in terms of legislation but will refer cross cutting work to the OSC.
- Consider the training requirements of Members who undertake Scrutiny and seek to secure such training as appropriate.

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PART 4A COUNCIL PROCEDURE RULES

This section includes changes approved by Council on 18 September 2014

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

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

1. ANNUAL MEETING

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

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

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

2. ORDINARY MEETINGS

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

3. SPECIAL MEETINGS

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

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

4. PLACE AND TIME OF MEETING

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

5. CHAIR OF MEETING

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

6. PUBLIC NOTICE OF MEETINGS

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

7. SUMMONS TO MEETING

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

8. AGENDA FOR ANNUAL MEETING

- (a) The agenda for the Annual Meeting shall include the following:-

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

9. AGENDA FOR ORDINARY MEETINGS

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

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

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

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

10. AGENDA FOR SPECIAL MEETINGS

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

11. VARIATION OF ORDER OF BUSINESS

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

12. MINUTES

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

13. PETITIONS

- (a) The Council shall only receive petitions which comply with this Rule and which comply with the Council's Petitions Scheme.
- (b) Petitions may be presented at an ordinary meeting and shall be relevant to some question over which the Council has authority or which affects the City.
- (c) The address of each person signing the petition shall be shown.
- (d) Petitions to be presented by members of the public shall be received by the Monitoring Officer no later than five clear days before the meeting. (Clear days exclude the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays). Petitions to be presented by Councillors must be received by the Monitoring Officer not later than three clear days before the meeting.
- (e) A petition to be presented by a member of the public shall indicate which one of the signatories is to present the petition.

- (f) Petitions shall be presented to the Council in the order in which they have been received, except that petitions presented by members of the public shall take precedence.
- (g) The reading of the subject matter shall not be of excessive length and speeches or additional remarks shall not be permitted.
- (h) Petitions shall be referred without debate to the Monitoring Officer who shall arrange for the petition to be dealt with in accordance with the Council's Petitions Scheme.
- (i) If the petition is presented at the same Council meeting at which there is a report on the agenda on the same subject, the Lord Mayor may exercise her / his discretion and may decide that the petition be considered with the report.
- (j) Where a petition has been referred to a Committee or Sub-Committee, a report shall be submitted to the Committee or Sub-Committee on the action taken as soon as practicable. Where the petition was presented by a member of the public, the lead petitioner shall be informed of the response. If the report on the petition requires an executive decision, the report will also be referred to relevant Executive member or appropriate Director

14. QUESTIONS AT COUNCIL

(a) Questions from Councillors

- (i) Only questions which comply with this Rule shall be asked.
- (ii) A member of the Council may, at any ordinary meeting of the Council, ask the Lord Mayor or the City Mayor or the relevant Executive member any question relating to the business of the Council or of the Executive or relating to any matter which affects the City. S/he may also may ask the duly nominated member of the Police Authority a question(s) regarding the Police Authority.
- (iii) Notice of the question(s), in writing, must be received by the Monitoring Officer not later than 10 am two days before the meeting.
- (iv) No question from a Councillor shall be accepted
 - (a) which contains abusive, defamatory or offensive language;
 - (b) which relates to a specific and identifiable person;
 - (c) at the Annual Meeting of the Council, a Special Meeting of the Council, or at any meeting of the Council summoned for the purposes of considering the budget;

- (v) Questions shall be asked in the order in which they have been received, subject to, at the Lord Mayor's discretion, questions on the same or related subject being taken consecutively and / or answered by way of one consolidated reply.
- (vi) At the meeting, after a question has been given a reply (including by way of a consolidated reply), the person who asked the question may ask one supplementary question for the purposes of clarifying the reply and, in the following paragraphs of this part of this Rule the word 'question' shall include such a supplementary question.
- (vii) Every question shall be asked and answered without discussion.
- (viii) No discussion shall be permitted nor any resolution moved with reference to any question or reply to a question.
- (ix) The Lord Mayor or the City Mayor (as may be appropriate) may authorise a Deputy City Mayor or Assistant City Mayor or any other Councillor to answer any question.
- (x) The name of the Councillor asking the question, the text of the printed question and a reference to the Council's webcast page shall be recorded in the Minutes.

(b) Questions from Members of the Public

- (i) Only questions which comply with this Rule shall be asked.
- (ii) A question shall be one main question about a particular topic and not include a series of sub-questions.
- (iii) An adult resident of the City of Leicester or the Chair or Vice-Chair (or /her/his nominee) of the Leicester Young People's Council may ask the Lord Mayor or the City Mayor any question relating to the business of the Council or of the Executive or relating to any matter which affects the City.
- (iv) No question from a member of the public shall be accepted:-
 - (a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation.
 - (b) from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;
 - (c) in relation to an individual's particular circumstances;

- (d) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;
- (e) about any matter which has been the subject of a petition or question or of a decision of Council, the Executive or any Committee or Sub-Committee within the previous six months;
- (f) at the Annual Meeting of the Council, a Special Meeting of the Council or at any meeting of the Council summoned for the purposes of considering the budget;
- (g) which contains abusive, defamatory or offensive language
- (f) which relates to a specific and identifiable person.
- (v) Notice of the question(s), in writing, must be received by the Monitoring Officer not later than five clear days before the meeting. (Five clear days excludes the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays). The notice shall be signed and shall include the questioner's address.
- (vi) Questions shall be asked in the order in which they have been received, except that where a member of the public wishes to ask more than one question (not including a supplementary question), s/he may only ask a second question when the first questions of all the other questioners have been disposed of, and so on for any subsequent questions.
- (vii) In the event of more than one question being asked on the same or a related subject by one or more members of the public, subject to the discretion of the Lord Mayor, these questions may be taken consecutively and / or answered by way of one consolidated reply.
- (viii) Where the person who gave notice of the question does not wish personally to ask the question s/he may have a friend ask the question on /her/his behalf, provided that the Monitoring Officer shall be notified of such an arrangement at the time notice of the question is given.
- (ix) Where the person who is to ask the question is not present at the meeting when the question is reached on the agenda, the question shall not be asked, except that where the question is to be asked by a friend under (viii) above if the friend is absent, the person who gave notice may ask the question.
- (x) At the meeting, after a question has been given a reply, the person who gave notice of the question may ask one supplementary question for the purposes of clarifying the reply and, in the following paragraphs of this part of this Rule, the word 'question' shall include

such a supplementary question. Where a friend has asked the first question, s/he may also ask a supplementary question on behalf of the person who gave notice.

- (xi) Every question shall be put and answered without discussion.
- (xii) No discussion shall be permitted nor any resolution moved with reference to any question or reply to a question.
- (xiii) The Lord Mayor or the City Mayor (as may be appropriate) may authorise a Deputy City Mayor or Assistant City Mayor or any other Councillor to answer any question.
- (xiv) The name of the person who gave notice of the question, the text of the question and a summary of the response shall be recorded in the Minutes.
- (xv) The time taken in asking and answering all questions from members of the public shall not exceed twenty minutes, subject to that time being extended at the discretion of the Lord Mayor. Any questions not disposed of at the expiry of the allotted period shall be answered in writing. The time taken in asking and answering one question shall not exceed three minutes.
- (xvi) No member of the public may ask more than six main questions in any one municipal year.

15. REPORTS TO COUNCIL

- (a) The City Mayor, the Executive, Scrutiny or other Committees **may** report to the Council on any issue which they have considered and **must** report on matters reserved to Council as detailed in Article 4 and Part 3 of the Constitution. The Monitoring Officer can apply this provision to Council working parties where appropriate. There may also be circumstances where the Monitoring Officer and/or Head of Paid Service consider it appropriate to report direct to Council.
- (b) An Executive report to Council shall be submitted in the name of the City Mayor
- (c) All reports to be considered at a Council Meeting shall be sent to every Councillor five clear days before the meeting. (Five clear days excludes the day of despatch, the day of the meeting, Bank Holidays, Saturdays and Sundays).
- (d) Any plan referred to in a report to be considered at Council shall be available for inspection by any Member of the Council for at least five clear days before the Council meeting at which the report is to be considered and shall be displayed in the Council's Tea Room during the afternoon of the day of the Council Meeting.

- (e) Any reports and their associated appendices/plans shall be available for public inspection five clear days before the meeting at which they are to be discussed, unless it is proposed that they are to be considered on the private agenda.
- (f) The Member of Council whose name in which a report is submitted shall propose any necessary motion to either:
- obtain approval by the Council of the recommendations as contained within the report, or
 - any other proposal relevant to the content of the report, or
 - the withdrawal of the report (unless a decision is legally required), or
 - the referral back to the City Mayor, the Executive or Committee for further consideration of the report.

(A proposal to withdraw a report or refer a report back to the Executive or a Committee shall be voted on without debate).

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

NOTE:

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

16. NOTICES OF MOTION

- (a) Apart from the exceptions outlined in Rule 17, notice must be given of every motion.

- (b) Every notice shall be in writing, signed by the Councillor giving the notice and delivered at the office of the Monitoring Officer at least six clear days before the next meeting of the Council. (six clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays). The Monitoring Officer shall keep records of the motions received and in the order of receipt.
- (c) The Monitoring Officer shall insert in the summons and notice for every meeting of the Council all notices of motion given as outlined above, in the order in which they have been received, unless the Councillor giving such a notice has indicated in writing that s/he proposes to move it at some later meeting or wishes to withdraw it.
- (d) If a motion of which notice has been given and not withdrawn is not moved by the Councillor who gave the notice, it may be moved by another Councillor. If it is not moved, it shall, unless postponed by consent of the Council, such determination being without debate, be treated as abandoned and shall not be moved again without new notice being given.
- (e) Notice of any motion which would have the effect of materially increasing the expenditure or reducing the revenue of the Council may not be submitted except in the form of referring such a proposal to the Executive and, if appropriate, to a Scrutiny Committee for consideration and report.

17. MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE

- (a) The following motions may be moved without notice:-
 - (i) Appointment of a Chair for the meeting.
 - (ii) Motions relating to the approval of accuracy of the Minutes of the Council.
 - (iii) Variation of order of business.
 - (iv) Motions for resolutions to be reconsidered within six months and inserted in the summons for the next ordinary meeting.
 - (v) Giving the consent of the Council where consent of the Council is required by the Constitution's Rules.
 - (vi) To withdraw or alter a report.
 - (vii) That a Councillor be not further heard or leave the meeting.
 - (viii) Adoption of reports and recommendations of the City Mayor, the Executive, Scrutiny Committees and Regulatory Committees.

- (ix) Where necessary confirmation of City Mayor, the Executive and Regulatory Committee decisions.
 - (x) Any motions arising out of consideration of a report at Council or of a decision of the Executive or a Regulatory Committee submitted for separate confirmation.
 - (xi) Authorising the sealing of documents.
 - (xii) Any other motions listed in Rule 19 (amendments) whether or not moved whilst another motion is under debate.
 - (xiii) Business required by or under statute to be transacted at the Annual Meeting.
 - (xiv) Appointment of Members on a Scrutiny Committee or on Regulatory Committees and Sub-Committees and their Chairs and Vice-Chairs.
- (b) The Lord Mayor **may** require motions of which notice is not given to be put in writing and given to the Monitoring Officer immediately upon being seconded.

18. MOTIONS GENERALLY

- (a) All motions and amendments must be proposed and seconded before any discussion is allowed.
- (b) A Councillor may not propose or second a motion or an amendment on an issue on which s/he is disqualified from voting.
- (c) As long as s/he has the consent of the seconder and the Council, a proposer of a motion or an amendment may alter the motion/amendment, if the alteration is such that it could be achieved by an amendment. The Lord Mayor may require that the altered motion or amendment be written down and handed to the Monitoring Officer before the consent of the Council is sought.
- (d) The proposer of a motion or an amendment may, with the consent of the Council, withdraw the motion or amendment and no other Councillor may speak on the motion or amendment, unless permission for its withdrawal has been refused.
- (e) The giving or refusal of the approval of the Council to the alteration or withdrawal of a motion or amendment shall be done without discussion.
- (f) When a motion is under debate no other motion shall be moved except the following:-
 - (i) To amend the motion.
 - (ii) To adjourn the meeting.

- (iii) To go to the next business.
- (iv) To adjourn the debate.
- (v) That the question under consideration be put to the vote immediately (known as 'the closure motion').
- (vi) That a Councillor not be heard further.
- (vii) That a Councillor leave the meeting.
- (viii) That the subject of debate be referred to a Committee.
- (ix) To extend the time limit for speeches.
- (x) That a Councillor be invited to remain in the meeting.
- (xi) To exclude the public and press.
- (xii) That a Procurement Rule be suspended.
- (xiii) That consent be given to alter or withdraw a motion or amendment.

19. AMENDMENTS

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

20. WHEN A COUNCILLOR MAY SPEAK

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

21. SPEECHES BY COUNCILLORS

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

22. EXTENSION OF TIME

- (a) A motion for an extension of time shall be moved, seconded and put to the vote without discussion, subject to rule (d) below.
- (b) The motion shall specify the length of the extension but no extension shall exceed ten minutes, and in the absence of any lesser period being specified, any extension shall be presumed to be for five minutes.

- (c) No more than two extensions of time may be moved in relation to a single speech.
- (d) Where the City Mayor is addressing the Chamber (i) to explain the annual Budget or (ii) to explain a matter of Executive policy he/she shall not be required to move a motion but shall be permitted to indicate to the Lord Mayor, before the expiry of 5 minutes, that he wishes to address the Chamber for up to 10 further minutes.

23. POINT OF ORDER

- (a) A point of order is a request by a Councillor to the Lord Mayor to rule on an alleged irregularity in the constitution or conduct of the meeting
- (b) A Councillor, whether s/he has spoken on the matter under discussion or not, and even if another Councillor is speaking, may stand, to raise a point of order, and with the consent of the Lord Mayor, be entitled to be heard immediately. The need to stand may be waived where it is a reasonable adjustment
- (c) The Councillor must make the point immediately s/he notices it and state the rule or procedural rule in question and how s/he alleges it has been broken.
- (d) A ruling on the point must be given by the Lord Mayor before the debate continues. No discussion shall be allowed on the Lord Mayor's ruling.

24. PERSONAL EXPLANATION

- (a) If a Councillor makes a statement which is misunderstood or misquoted by another Councillor at that meeting, the Councillor may stand to make a personal explanation and with the consent of the Lord Mayor, be given the opportunity to correct the misunderstanding, either immediately or at the end of the speech then in progress.
- (b) The ruling of the Lord Mayor on the admissibility of a personal explanation shall not be open to discussion.

25. RIGHT OF REPLY

- (a) A proposer of an original motion shall have the right to reply to the debate at the following times:-
 - (i) At the close of the debate on the motion.
 - (ii) At the close of the debate on an amendment to the motion.
 - (iii) Before a motion to proceed to the next business is put to the vote.

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

26. NEXT BUSINESS

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

27. RECONSIDERATION OF COUNCIL RESOLUTIONS

- (a) The proposal of a motion to reconsider any resolution of the Council passed within the preceding six months or to the same effect as one which has been rejected within that period shall not be allowed unless it is part of a Committee report to Council or, at a meeting of the Council, a Councillor moves for such a motion to be included in the agenda for the next ordinary meeting of the Council and the motion is seconded and carried.

- (b) When any motion to reconsider an issue is disposed of, no Councillor shall move for leave to propose a similar motion, that is, with reference to the same subject, within a further six months.

28. VOTING

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

29. RECORDING OF VOTES

- (a) After a proposition is put from the Chair but before the vote is taken, any three Councillors present at the meeting may request that the names of Councillors voting for or against the proposition be recorded by the Monitoring Officer in the minutes of the meeting and any such record shall, on request, be supplied to Councillors or to the press.
- (b) Immediately after a vote is taken any Councillor may require that the Minutes record how s/he voted if at all on the proposal.**

30. MISCONDUCT BY COUNCILLORS

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

- (c) Whenever the Lord Mayor stands during a debate, a Councillor who is standing shall sit down and the Council shall be silent.

31. DISTURBANCE BY MEMBERS OF THE PUBLIC

- (a) If a member or members of the public interrupt the proceedings at a Council meeting, the Lord Mayor may warn them. If they continue the interruption, the Lord Mayor may order their removal from the Council Chamber.
- (b) In cases of general disturbance in any part of the Chamber open to the public, the Lord Mayor may order that part to be cleared.
- (c) The Lord Mayor shall in the case of misconduct or obstruction by a member or members of the public have the same power of suspending the sitting of the Council as outlined under Rule 30.

32. URGENT BUSINESS

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

33. QUORUM

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

34. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

- (a) Suspension

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

(b) Amendment

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

35. COUNCIL COMMITTEES

(a) Appointment of Committees and Sub-Committees

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

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

(ii) The majority of the members of a Committee shall be Councillors.

(b) Political Balance of Committees and Sub-Committees

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

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

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

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

36. CHAIRS AND VICE-CHAIRS OF COUNCIL COMMITTEES

(a) Committees

- (i) At its annual meeting the Council shall appoint, and may, from time to time appoint and remove, the Chairs and Vice-Chairs of Committees, and Chairs and Spokespersons of Scrutiny Committees.
- (ii) Chairs and Vice-Chairs may resign by giving notice in writing to the Monitoring Officer. Such notice shall take effect from the time of its receipt by the Monitoring Officer unless the resignation states that it is to take effect at a later date. In that event, the resignation shall be effective from the date stated in the resignation letter.
- (iii) Unless otherwise stated in the Constitution, the Chair and Vice-Chair of a Committee shall be a Councillor.

(b) Sub-Committees

- (i) The parent Committee shall appoint, and may remove, the Chairs and Vice-Chairs of any Sub-Committees it appoints.
- (ii) Chairs and Vice-Chairs may resign by giving notice in writing to the Monitoring Officer, in accordance with the procedure for the resignation of Chairs and Vice-Chairs of Committees (Paragraph (a)(ii) of this rule refers).
- (iii) Unless otherwise stated in the Constitution, the Chair and Vice-Chair of a Sub-Committee shall be a Councillor.

(c) Duration of Appointment

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

37. QUORUM OF COUNCIL COMMITTEES

(a) Committees

The quorum of every Standing Committee shall be three.

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

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

(b) Sub-Committees

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

38. DATES OF COUNCIL COMMITTEE MEETINGS

(a) Cycle of Meetings

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

(b) Committees or Sub-Committees

The dates of Committees and Sub-Committees shall be set by the Monitoring Officer in consultation with Group Leaders and the Head of Paid Service and an agreed programme of dates shall be presented to Annual Council for confirmation.

(c) Variation of Dates

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

39. SPECIAL MEETINGS

(a) In addition to the dates of meetings agreed by the Monitoring Officer, in consultation with the City Mayor, Group Leaders and Head of Paid Service any Committee or Sub-Committee may be summoned specially if so required by either:-

(i) The Lord Mayor; or

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

(iii) A written request to the Monitoring Officer signed by three members of the Committee.

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

40. NOTICE OF MEETINGS

Notice of the time and place of a Committee meeting shall be published at the Council's offices at least five clear days before the meeting unless a special meeting is called within five days in which case the required notice must be

given as soon as the special meeting is called. (Five clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays.)

41. ABSENCE OF CHAIR FROM MEETING

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

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

- (a) A Councillor may attend a meeting of a Committee of which s/he is not a Member, and s/he may be invited to speak by the Committee but not vote on any item on the agenda, subject to the following:-
 - (i) Where a Councillor has an interest in any item of business, s/he shall declare his/her interest, s/he may not speak on that item, and may be permitted to remain, or required to withdraw, under the same procedures as if s/he were a member of the Committee.
 - (ii) The right to attend shall not apply to any part of a meeting during which a report is considered which contains exempt or confidential information of a description which does not require the report to be open to inspection in accordance with the Access to Information Procedure Rules, unless the Councillor requires access to the meeting during consideration of such an item in order to properly carry out his/her duties as a Councillor, in accordance with this Constitution.

43. PROCEDURE AT COUNCIL COMMITTEE AND SUB-COMMITTEE MEETINGS

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

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

44. OBJECTIONS TO DECISIONS

- (a) Subject to the exceptions and other provisions in this Rule, any five Councillors may object to decisions taken by a Committee or Sub-Committee by giving notice in writing to the Monitoring Officer. The deadline for receipt of such notice is 5.00pm on the fifth working day after the decision (or third day after publication of the decision, if later).
- (b) A notice under this Rule requesting call-in of a decision must:
 - i. Be in writing
 - ii. Specify a sponsor and a seconder
 - iii. Specify reasons for the call-in
- (c) Where the decision in question is that of a Sub-Committee, the matter shall be reconsidered at the next ordinary meeting of its Committee.
- (d) Where the decision in question is that of a Committee, the matter shall be reconsidered at the next ordinary meeting of the Council.
- (e) Where a decision of a Sub-Committee has been objected to and referred to its Committee, there shall be no right of objection to the decision of the appointing Committee on the matter.
- (f) Where the decision of a Committee has been objected to and the Council has referred the matter back to the Committee for reconsideration there shall be no right of objection to the subsequent decision of the Committee on the matter.
- (g) Where a decision has been called-in in accordance with this Rule, no further action shall be taken on it until it has been reconsidered by a Committee or Council, as appropriate or unless the objection has been withdrawn by the sponsor and seconder via the Monitoring Officer in the meantime.
- (h) A Committee or Sub-Committee may decide that any matter is of such urgency that no objection may be made.
- (i) No objection shall be made in respect of the following decisions:
 - (i) Procedural decisions to include:
 - (a) election of Chair / Vice-chair;
 - (b) exclusion of the press and public;
 - (c) dates and/or times of meetings;

- (d) approval of minutes for accuracy and the confirmation of Sub-Committee decisions, but not the confirmation of Working Party minutes;
 - (e) matters relating to the membership, functions and terms of reference of Committees and Sub-Committees;
 - (f) a decision that no objection may be made on grounds of urgency.
- (ii) Items submitted for information only.
 - (iii) Decisions of the Employees Committee.
 - (iv) Decisions which, in the opinion of the Monitoring Officer, are of a quasi-judicial nature, which includes the decisions of the Licensing Sub-Committee and the Planning and Development Control Committee.

45. URGENT ACTION BETWEEN MEETINGS

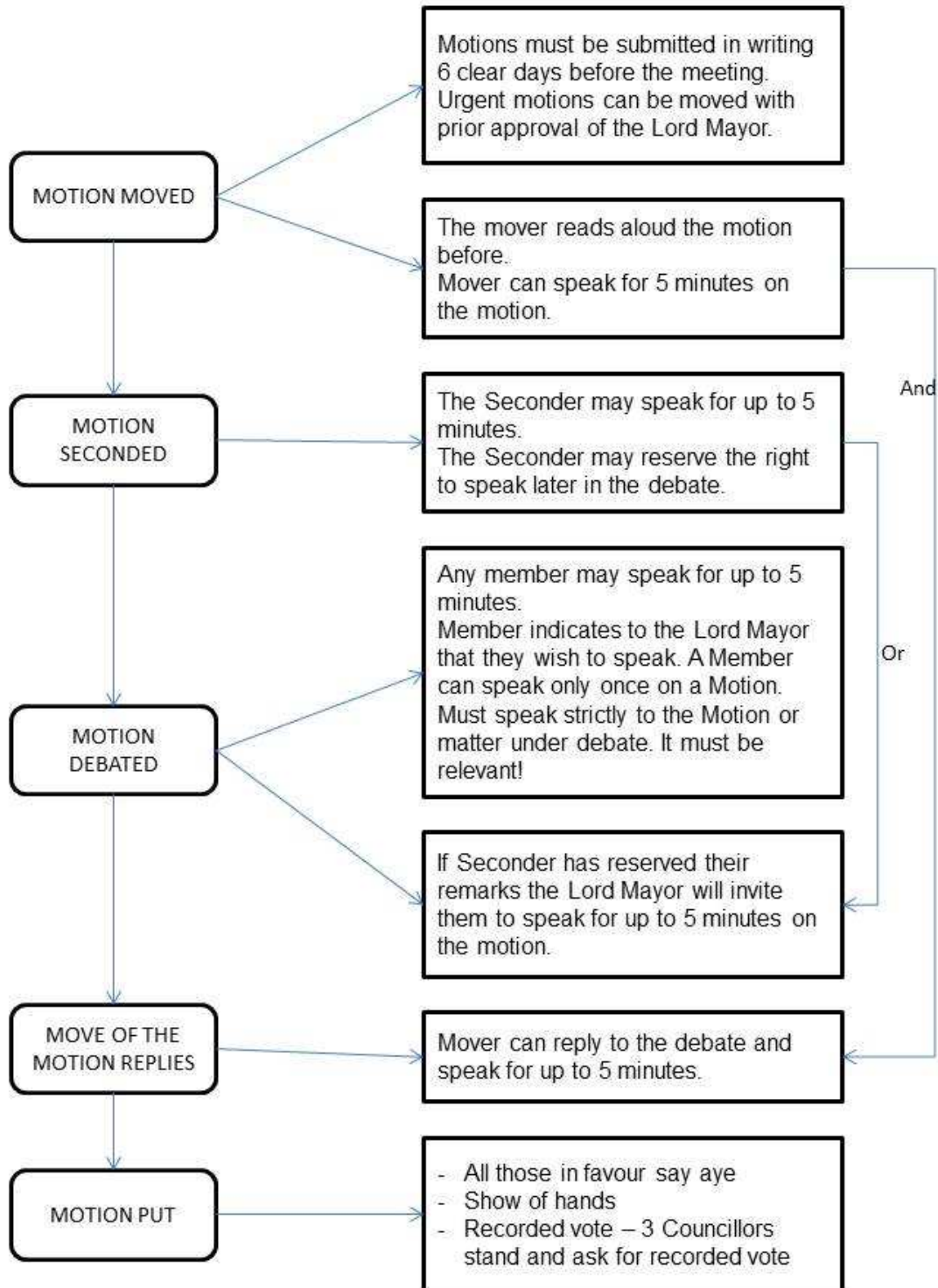
The Head of Paid Service, a Strategic Director or a Divisional Director may, after consultation with the Chair and Vice-Chair of the appropriate Committee(s) or Sub-Committee(s), take any urgent action which s/he considers it necessary to take prior to the next meeting of the Committee or Sub-Committee. Any such action shall be reported for information to the Committee or Sub-Committee at its next meeting specifying the grounds for urgency, and if there has been an avoidable delay, indicating steps to avoid recurrence.

46. RECORDING OF PROCEEDINGS

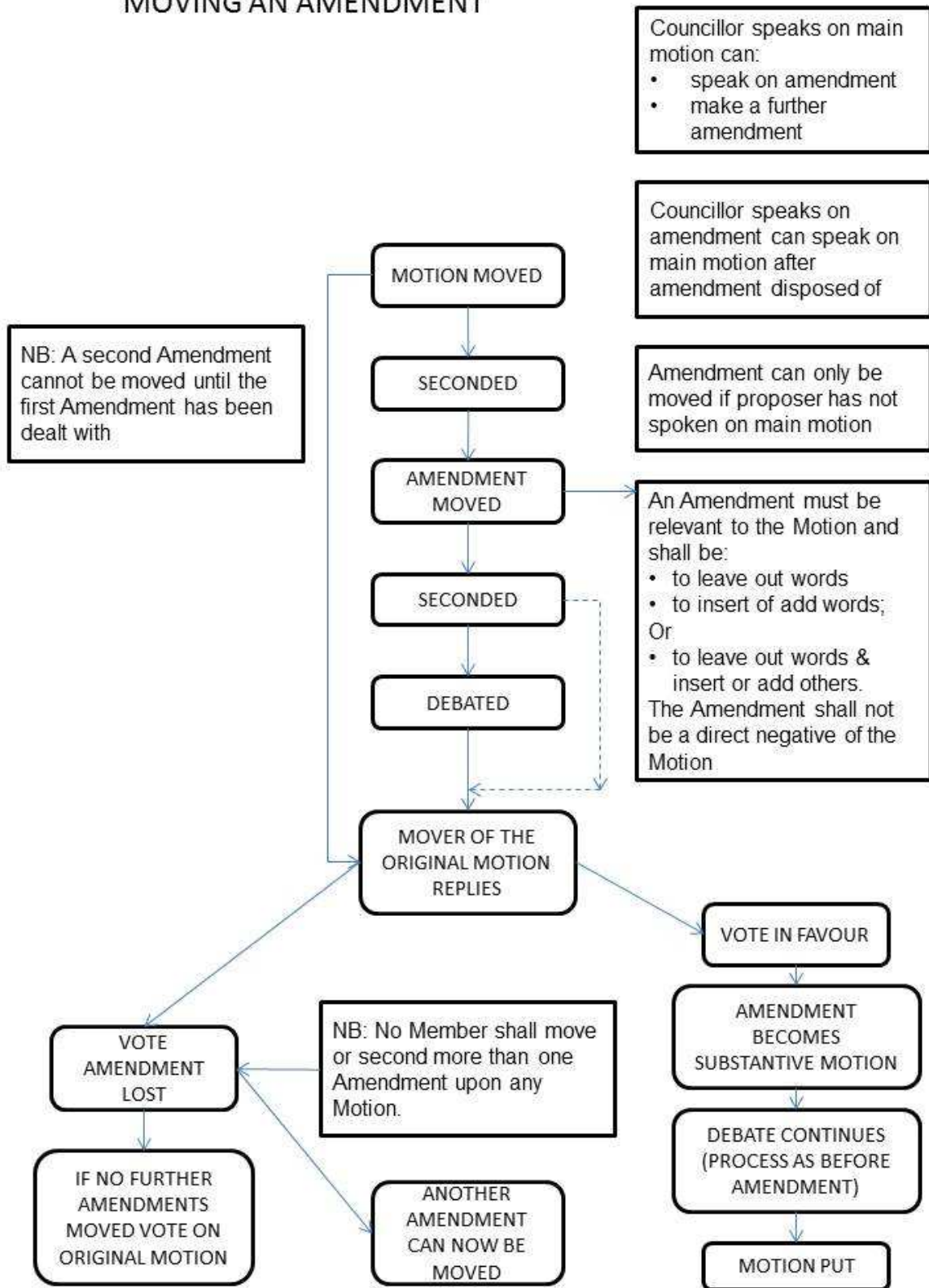
All requests to record / capture the proceedings of any Council meeting will be considered in accordance with the Council's policy attached as Appendix 8 to Part 5 of the Council's Constitution.

FULL COUNCIL GUIDE TO RULES OF DEBATE

MOTION MOVED WITHOUT AMENDMENT



MOVING AN AMENDMENT



PART 4B

ACCESS TO INFORMATION

PROCEDURE RULES

DRAFT

PART 4B - ACCESS TO INFORMATION - PROCEDURE RULES

CONTENTS

This section includes changes approved by Council on. 18/09/14.

Future variations:

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

DRAFT

RULE 1 - Scope

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

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

For these purposes “briefings” are not “meetings”

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

RULE 2 – Additional rights to Information

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

RULE 3 – Rights to attend meetings

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

RULE 4 – The Forum for Executive decision-making

- a) “Meetings” of the Executive and its committees may be in the form of public meetings or private meetings. A public meeting will be open to members of the public, subject to Rule 11. Not all Executive decision-making is undertaken at “meetings”. Executive decision-making can be undertaken on an “individual” basis by an Executive Member or by an Officer outside of a public or private meeting.
- b) The City Mayor will determine what matters will be considered at public meetings or private meetings, or individually by Executive decision-makers outside of meetings
- c) This rule does not apply to meetings, the sole purpose of which is for officers to brief members. For the purpose of this rule such a briefing is not a ‘meeting (see Note to Rule 4)’.

- d) Where it is proposed to make a Key Decision at a meeting (rather than individually), that meeting shall be conducted in public, subject to Rule 12.
- e) As soon as is reasonably practicable after an Executive decision is made (at a public meeting, a private meeting or individually by Members or Officers) it shall be communicated to the proper officer, unless the proper officer is already present, who will be responsible for recording and publishing it in accordance with Rule 18.
- f) The Head of Paid Service, the Director of Finance and the Monitoring officer and their nominees are entitled to attend any meeting of the Executive and its Committees. The Head of Paid service will be given reasonable notice that a private or public Executive meeting is to take place.

Note to Rule 4:

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

RULE 5 – Notices of public and private meetings

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

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

RULE 6 – Access to Agenda and Reports before public meetings

The Council will make copies of the agenda and reports open to the public available at Council's Internet site and at the Council's Offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to the City Mayor and Councillors.

RULE 7 – Supply of copies

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

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

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

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the City Mayor and Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

RULE 9 – Background papers

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

RULE 10 – Summary of the public’s rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Council’s Internet site and at the Council's New Walk Centre Offices. This Constitution constitutes the written summary.

RULE 11 - Exclusion of access by the public to meetings

For Executive Meetings:

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

For all meetings:

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

RULE 12 - Exclusion of access by the public to reports

- (1) If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public.

- (2) Such reports will be marked 'Not for Publication' together with the category of information likely to be disclosed.
- (3) There may be occasions where a public meeting of the Council or its committees/commissions considers a report, or part thereof, which is 'Not for Publication' as part of a discussion, but does not specifically refer to that report during the discussion. In these circumstances it will not be necessary to exclude the public from part or all of the discussion/meeting. . In relation to public meetings of the Executive this provision applies subject to Regulation 4 LA(EA)(M&AI)(Eng)Regulations 2012] which may compel removal of the public for all/part of the meeting, where confidential information might be disclosed

RULE 13 - Procedure before taking Key Decisions

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

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

RULE 14 - The Plan of Key Decisions

- (1) A Plan of Key Decisions will be prepared by the City Mayor on a rolling basis.
- (2) The Plan of Key Decisions will contain matters which the City Mayor has reason to believe will be subject of a Key Decision to be taken by the City Mayor, the Executive, a Committee of the Executive, individual Members of the Executive, Officers, Area Committees or under Joint Arrangements in the course of the discharge of an Executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
 - (a) the matter in respect of which the decision is to be made;
 - (b) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
 - (c) the date on which, or the period within which, the decision is to be made;
 - (d) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
 - (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
 - (f) that other documents relevant to those matters may be submitted to the decision maker; and
 - (g) the procedure for requesting details of those documents (if any) as they become available.
- (3) The Plan of Key Decisions must be published at least 28 days before any proposed Key Decision contained within it is taken, subject to Rules 15 and 16.
- (4) Exempt information need not be included in a Plan of Key Decisions and confidential information cannot be included.
- (5) Where a decision maker takes a decision relating to an item on the current Plan of Key decisions, but is of the opinion that upon having received final officer advice, it isn't a key decision, reasons shall be specified in the record of the decision for this re-classification.

RULE 15 - General Exception

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

RULE 16 - Special Urgency

- (1) If, by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the Chair of the relevant Scrutiny Committee(s) agree(s) that the taking of a decision cannot be reasonably deferred.
- (2) If there is no Chair of the relevant Scrutiny Committee(s), or if the Chair of each relevant Scrutiny Committee is unable to act, then the agreement of the Lord Mayor, or in her/his absence the Deputy Lord Mayor.
- (3) As soon as the decision-maker has obtained agreement in line with Rule 16 (1) and (2) above, they shall make available at the relevant Council offices and its website a notice setting out the reasons for applying Rule 16.

RULE 17 - Report to Council

- (1) If it is believed that an Executive decision has been taken which was :
 - (a) not treated as a Key Decision when it should so have been treated
 - (b) a Key Decision which was not included in the Plan of Key Decisions under Rule 14; or
 - (c) a Key Decision which was not properly the subject of the general exception procedure under Rule 15; or
 - (d) a Key Decision which was not properly the subject of the special urgency procedure under Rule 16;
 - (e) a key decision which was not properly the subject of the exception under Rule 13(2).a Scrutiny Committee, , may require the City Mayor or Executive to submit a report to the Council within such reasonable time as specified in the request.

This is in addition to the right of call-in for any Executive decision provided for by Rule 12 of Part 4D (City Mayor & Executive Procedure Rules)

- (2) Any request under this Rule for call-in of a City Mayor & Executive decision must:
 - (a) be in writing (all Members signing such a notice should sign and print their name on the notice in the interests of clarity).
 - (b) specify reasons for the call-in
 - (c) specify a reasonable deadline for reporting to Council, and
 - (d) be submitted to the Monitoring Officer within five working days of the decision, the deadline for receipt being 5pm on the fifth working day after the date of the publication of the Executive decision.
- (3) Pending Council consideration of the report in accordance with this Rule, a call-in of a decision can be withdrawn by:
 - (a) resolution of the relevant Scrutiny Committee, or
 - (b) unanimous agreement of the Scrutiny Committee's Chair and Vice Chair.
- (4) The City Mayor & Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the City Mayor is of the opinion that it was not a Key Decision the reasons for that opinion.
- (5) In any event the City Mayor will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

RULE 18 - Record of decisions

The record of an Executive decision produced by the proper officer under Rule 4(e) shall comprise:

- i. a record of the decision including the date on which it was made
- ii. a record of the reasons for the decision
- iii. details of any alternative options considered and rejected by the decision-maker
- iv. a record of any conflict of interest declared by the decision-makers and

- v. a note of any relevant dispensation granted..

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

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

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

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

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

The Councillor may not vote on any item.

The Chair may, at her/his discretion, invite the Councillor to speak.

RULE 20 - Additional rights of access for Councillors

(1) Material relating to previous decisions

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

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

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

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

(2) Material relating to future decisions

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

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

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

(3) Political Conventions

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

RULE 21 - Access to documents by Members of Scrutiny Committees

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

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

(2) Limit on rights.

A Scrutiny Committee will not be entitled to:

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

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

(4) Political Conventions

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

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APPENDIX 1

GUIDANCE: ACCESS TO INFORMATION

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

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

PUBLIC INTEREST TEST

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

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

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

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

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

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

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

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

EXEMPT INFORMATION

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

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

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

<p>4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>'employee' means a person employed under a contract of service</p> <p>'labour relations matter' means –</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p>
<p>CATEGORY</p>	<p>QUALIFICATIONS/DEFINITIONS</p>
	<p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>'office-holder', in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;</p>
<p>5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6 Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	
<p>7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution</p>	

of crime.	
7A Information which is subject to any obligation of confidentiality.	Applies to Standards Committee only
7B Information which relates in any way to matters concerning national security.	Applies to Standards Committee only

7C The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	Applies to Standards Committee only
Generally.	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Public Interest test

In respect of all the above categories, information is only exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PART 4C BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

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

In this Rule

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

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

RULE 1 – PROCESS FOR APPROVING THE POLICY AND BUDGETARY FRAMEWORK

- (1) The Council will be responsible for the adoption of plans and strategies comprising the policy framework, and the budget (as defined in Article 4)
- (2) The City Mayor and Executive will be responsible for the preparation of proposed plans, strategies and budgets for Council consideration.
- (3) In respect of the adoption of plans and strategies comprising the policy framework, and the budget the City Mayor must :-
 - a) include in the forward plan a timetable for making proposals to the Council;
 - b) prepare draft proposals in advance of making firm proposals, and provide a consultation period within which Scrutiny Committees can consider the draft proposals.
- (4) In making proposals to the Council, the City Mayor will take into account any responses from Scrutiny Committees.
- (5) When considering the City Mayor's proposals the Council may:
 - a) adopt or approve the draft budget, plan or strategy;
 - b) ask the executive to reconsider or
 - c) amend the budget, plan or strategy itself
- (6) If the Council approves the proposals with amendments or approves alternative proposals, the City Mayor may resubmit her/his proposals or make fresh proposals and submit these to the Council. S/he may exercise this right by writing to the Monitoring Officer within five days of the Council decision. S/he may also waive this right by writing to the Monitoring Officer.
- (7) If the Council rejects the proposals, the City Mayor must resubmit her/his proposals or make fresh proposals.

- (8) If the City Mayor submits or resubmits proposals under rule 1.6 or 1.7 the Council shall consider these proposals. It shall make its final decision on the matter in that it may approve the proposals of the City Mayor by a simple majority of votes cast at the meeting; or approve a different decision which does not accord with the recommendations of the City Mayor by a two-thirds majority.
- (9) Once proposals are approved, the City Mayor shall implement them.

RULE 2 – IN YEAR CHANGES

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

RULE 3 – DECISIONS MADE OUTSIDE THE BUDGET AND POLICY FRAMEWORK

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

RULE 4 – URGENT DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- (1) The City Mayor, or anyone discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget or approved by Council (and any permitted variation), if the decision is a matter of urgency and is taken in accordance with this Rule.
- (2) Except where the reason for urgency is a declared emergency, the decision may not be taken unless:
 - i. it is not practical to convene a quorate meeting of the full Council; and
 - ii. the chair of the relevant Scrutiny Committee agrees that the decision is a matter of urgency. In the absence of the Chair of a relevant Scrutiny Committee, the consent of the Lord Mayor, or in their absence the Deputy Lord Mayor or High Bailiff will be sufficient.

- (3) The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Scrutiny Committee's or other Member's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- (4) Except where the reason for urgency is a declared emergency, following the decision the decision taker will provide a full report to a subsequent Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (5) Where a decision is taken as part of a response to a declared emergency, the decision need not comply with the Budget and Policy Framework, but must be made within the decision making framework of the Emergency Plan.

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

- (1) Call-in rights under this Rule can be exercised by:
 - a. A Scrutiny Committee, or
 - b. Any five Councillors
 who shall be termed an "Objector" for the purpose of this Rule.
- (2) Where an Objector is of the opinion that an executive decision is, or if made, would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's Budget, then the Objector shall seek advice from the Monitoring Officer (who will consult the Section 151 Officer where appropriate).
- (3) An Objector can give notice requesting that an executive decision be called-in on the grounds that it is contrary to the Budget and Policy Framework by giving notice in writing to the Monitoring Officer, the deadline for receipt of such objection being 5pm on the fifth working day after the decision (or the third day after the publication of the decision, if later).
- (4) Any notice made under this rule for call-in of an executive decision must:
 - a. be in writing
 - b. specify a sponsor and a seconder, and
 - c. specify reasons for the call-in
- (5) In addition to providing advice to the Objector, the Monitoring Officer will facilitate discussions between the Objector and the City Mayor/Executive with a view to reaching agreement, and the decision may be taken if either:
 - a. the objector accepts that the executive decision is within the Budget and Policy Framework; or
 - b. the executive decision receives the support of the Objector.

Agreement by an Objector under this provision must be by:

 - a. the sponsor and seconder if the objection has been made by five Councillors, or

- b. the Chair and Vice Chair, if the objection has been made by a Scrutiny Committee.
- (6) If the objector remains of the view that an executive decision is contrary to the Budget and Policy Framework, and agreement cannot be reached, then the matter will be referred to the Council as Stated in (7) and (8).
- (7) If the decision has yet to be made or has been made but not yet implemented, no further action will be taken in respect of the decision or its implementation until the Council has considered the matter. The Council shall meet as soon as practical. At the meeting the Council will receive a report on the decision or proposals which will include the views of the City Mayor/Executive and the Objector, if any, and the advice of the Monitoring Officer (and the Section 151 Officer) if appropriate).
- (8) The Council may either:
- i. determine that the decision or proposal of the Executive decision taker falls within the existing Budget and Policy Framework. In this case the decision may be taken by the decision taker and implemented; or
 - ii. determine that the decision or proposal is contrary to the Policy Framework or contrary or not wholly in accordance with the Budget. It may then either:
 - require the City Mayor to take the decision in accordance with the Budget and Policy Framework; or
 - take the decision itself.

PART 4D – CITY MAYOR & EXECUTIVE PROCEDURE RULES

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

RULE 1 – The discharge of Executive Functions

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

RULE 2 – The delegation of Executive Functions

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

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

RULE 3 – The Council’s Scheme of Delegations and Executive Functions

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

RULE 4 – Conflicts of Interest

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

RULE 5 – Executive meetings

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

RULE 6 – Consultation

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

RULE 7 – Agenda for Meetings of the Executive

- a. The City Mayor will decide upon the schedule for the meetings of the City Mayor & Executive. S/he may put on the agenda of any City Mayor & Executive meeting any matter which s/he wishes, whether or not authority has been delegated to the Executive, Committee of it or any member of officer in respect of that matter. The Monitoring Officer will comply with the City Mayor's request in this respect.
- b. Any member of the Executive may, with support from the City Mayor, require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.
- c. The Monitoring Officer and/or Director of Finance may include an item for consideration on the agenda of an Executive meeting, for the consideration of a report from an officer.
- d. Urgent business –the Chair of a meeting can decide to accept an urgent item onto the agenda where, in their opinion, the item should be considered as a matter of urgency because of special circumstances which shall be specified in the minutes.

RULE 8 – Dates of meetings

a. Cycle of Meetings

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

b. Variation of Dates

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

c. Cancellation

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

RULE 9 – Special meetings

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

- (i) The City Mayor; or
- (ii) A written request to the Monitoring Officer signed by three members of the Executive, or

- (iii) The Monitoring Officer or Director of Finance in performance of their statutory duties; or
- (iv) Any two of the Head of the Paid Service, the Monitoring Officer or the Director of Finance, if of the opinion that a meeting needs to be called to consider a matter that requires a decision.

RULE 10 – Notice of meetings

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

RULE 11 – Absence of Chair from meetings

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

RULE 12 – Call-in of Executive Decisions

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

- ii. specify a sponsor and a seconder
 - iii. specify reasons for the call-in
- d. No call-in may be made if the decision maker decides when making a decision that the matter is urgent for specified reasons. Where a decision is made as part of a response to a declared emergency, the decision will be deemed urgent and no call in may be made.
- e. No call-in shall be made in respect of the following decisions:-
- (i) Matters of procedure, to include:-
 - (a) election of Chair/Vice-Chair;
 - (b) exclusion of the press and public;
 - (c) dates and/or times of meetings;
 - (d) matters relating to the membership, functions and terms of reference of the Executive or the delegation of executive decisions.
 - (e) a decision that no objection may be made on grounds of urgency.
 - (f) a recommendation to Council in respect of proposals under Rule 1.2 of the Budget and Policy Framework Procedure Rules
 - (ii) Items submitted for information only.
- f. Where a decision has been called-in, no further *legally binding* action shall be taken on it and it shall stand referred to a meeting of the Full Council, unless either:
- The Decision Maker and the relevant Scrutiny Committee (or, via the Monitoring Officer, the Scrutiny Committee Chair and Vice Chair unanimously) come to an agreement; or
 - The call-in is withdrawn.
- A decision called-in under this Procedure Rule must be referred to a meeting of the Full Council, but shall prior to this be referred to the relevant Scrutiny Committee(s) if programmed, or Special Scrutiny Committee(s) if summoned in accordance with Scrutiny Procedure Rule 4.
- g. Withdrawal of a call-in under this Rule can be by:

Five Member call-in:

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

Scrutiny call-in:

- ii. By a resolution of the relevant Scrutiny Committee, or
 - iii. By unanimous agreement of the Scrutiny Committee's Chair and Vice Chair, via the Monitoring Officer who shall have delegated authority for this purpose.
- h. When considering a matter called-in, the Council may either:
- support the Executive's decision, or
 - recommend a different decision to the decision maker.
- i. Following consideration of a 'call-in' by Council under this Rule the original decision will be deemed to be revived in its entirety. Any agreement by an Executive Decision maker to change the original decision will require a further formal Executive Decision.
- j. The Executive's decision after considering a Council recommendation may not be subject of a further call-in.

RULE 13 – Quorum

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

RULE 14 – Procedure at meetings

- a. The procedure to be followed at meetings of Executive shall be in accordance with these Rules, but where a point of procedure arises which is not covered, the matter shall be determined by the City Mayor or other person presiding at the meeting. Such rulings shall not be challenged at any meeting.
- b. In determining procedure, the person presiding at the meeting shall have regard to the Council Procedure Rules for the conduct of meetings and debate.
- c. The City Mayor may adopt from time to time a protocol for members of the public to ask questions at public City Mayor & Executive before decisions are taken, to promote an inclusive and open approach to decision making.

RULE 15 – RECORDING OF PROCEEDINGS

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

PART 4E - SCRUTINY PROCEDURE RULES

This section includes changes approved by Council on 18 September 2014

RULE 1 – The number and arrangements for Scrutiny Committees

The Council will have Scrutiny Committees as set out in Article 7 appointed in accordance with this Constitution.

RULE 2 – Quorum

The quorum of every Scrutiny Committee shall be three.

RULE 3 – Dates of meetings

a. Scrutiny Committees

The dates of Committees and Sub-Committees shall be set by the Monitoring Officer in consultation with the Head of Paid Service and Chairs and Vice Chairs and an agreed programme of dates shall be presented to Annual Council for confirmation.

b. Variation of dates

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

RULE 4 – Special meetings

(1) In addition to the dates of meetings agreed by a Committee at its first ordinary meeting in the municipal year, any Scrutiny Committee / Commission may be summoned specially if so required by either:-

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

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

RULE 5 – Notice of meetings

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

RULE 6 – Absence of Chair from a meeting

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

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

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

RULE 8 – Attendance at meetings by members of the public

- (1) Members of the public are welcome to attend Scrutiny meetings and meetings will be conducted in an open manner.
- (2) The Committee Chair may invite members of the public or interested parties to attend or speak at a Scrutiny meeting to provide information, opinion or

expert advice where the Committee considers that to do so will assist in performance of the Committee's functions.

- (3) A member of the public may make a request to be allowed to speak by the Chair in advance of the meeting.
- (4) The Chair shall at all times make clear to the member of the public and the meeting the extent to which they may participate in the meeting.
- (5) If a formal officer response is requested at the meeting the question / representation / statement of case should be submitted in advance of the meeting under the process identified in Rule 10. Otherwise a formal officer response will only be prepared where this is resolved by the meeting.
- (6) No topic raised by a member of the public shall be accepted:-
 - (a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation;
 - (b) from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;
 - (c) in relation to an individual's particular circumstances;
 - (d) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;
 - (e) which contains abusive, defamatory or offensive language;
 - (f) or relates to a specific and identifiable person.

RULE 9 – Petitions and questions at Scrutiny Committee Meetings

(a) PETITIONS

(i) Referred from Council

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

(ii) Petitions Presented to Committee

- (a) The Committee shall only receive petitions which comply with the Council's Scheme for Petitions,
- (b) Petitions shall be presented to the Committee in the order in which they have been received with petitions presented by members of the public taking precedence.
- (c) The reading of the subject matter shall not be of excessive length.

- (d) If, subsequent to the meeting, it becomes apparent that the petition is more relevant to some other Committee, it may instead or also be submitted by the Monitoring Officer to that Committee.
- (e) If the petition is presented at the same Committee meeting at which there is a report on the agenda on the same subject, a Councillor may propose that the petition be considered with the report.
- (f) Further to the presentation of a petition, a report shall be submitted to the Committee on the action taken as soon as practicable.

(iii) Petitions Presented to a Director

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

RULE 10 – Questions, representations and statements of case

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

(1) Questions, representations and statements of case:

- (a) Should be received by the Monitoring Officer not later than five clear days before the meeting. (Five clear days excludes the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays). The notice shall be signed and shall include the questioner's address. The Monitoring Officer shall decide at which Committee an issue shall be addressed.
- (b) At the meeting, matters will normally be discussed in the order in which they have been received
- (c) Where the person who gave notice of the topic does not wish personally to address the Committee s/he may have a friend do so on her/his behalf, provided that the Monitoring Officer is notified prior to the meeting.
- (d) Where the person presenting is not present at the meeting when the appropriate point is reached on the agenda a written response will be sent to the person who submitted the request.
- (e) At the meeting, the Chair shall notify the member of the public the extent to which they may participate in the meeting
- (f) The name of the person who gave notice of the topic, the text of the question and a summary of the representation, statement of case or response shall be recorded in the Minutes.

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

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

- (a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation,
- (b) or from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;
- (b) in relation to an individual's particular circumstances;
- (c) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;
- (d) which contains abusive, defamatory or offensive language;
- (e) or relates to a specific and identifiable person.

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

RULE 11 – Procedure at meetings

- (1) The procedure to be followed at a Scrutiny Committee meeting shall be in accordance with these Rules, but where a point of procedure arises which is not covered, the matter shall be determined by the person presiding at the meeting. Such rulings shall not be challenged at any meeting.
- (2) In determining procedure, the person presiding shall have regard to the Council Procedure Rules for the conduct of meetings and debate.

RULE 12 – Education representatives

- (1) The Children, Young People and Schools Scrutiny Commission (or relevant Scrutiny Committee dealing with education matters) shall include in its membership such co-opted voting members as are required by statute. The Council shall determine such membership from time to time and review this at its annual meeting.
- (2) A relevant Scrutiny Committee in this paragraph is a Scrutiny Committee of the Council where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the Council's executive. If the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, although they may stay in a meeting and speak.

RULE 13 – Agenda items

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

RULE 14 – Urgent business

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

RULE 15

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

PART 4F: FINANCE PROCEDURE RULES

DRAFT

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

A. *Introduction and Guide*

- 1.1 Finance Procedure Rules (FPRs) exist to regulate the way in which the Council manages its financial affairs. This is a necessary discipline in any large organisation and particularly in the public sector where there are expectations for the proper use and management of public money. Under the 1972 Local Government Act, the Council has a specific statutory responsibility, through the Director of Finance , for the “.....proper administration of its financial affairs.”
- 1.2 Essentially these rules set out the framework of responsibilities and requirements across the whole range of the Council’s financial affairs and in doing so their content inevitably covers a range of audiences of Council employees. In addition to those that relate to the Director of Finance’s, responsibilities can be broadly split into three main groups;
 - Strategic and Divisional Directors (A)
 - Corporate and service finance staff (B)
 - Cost Centre Managers (CCMs) and other non-finance employees (C)
- 1.3. To help users of these rules find the sections most relevant to their responsibilities the detailed FPRs in section B are marked to show which rules relate to which broad group of employees.
- 1.4 Whilst all employees, at whatever level in the Council, should be aware of FPRs, category A and B employees should have a fairly good knowledge of the detail. Category C employees will probably need to consult FPRs less often.
- 1.5 The rules cover a number of areas and these are listed in the index at the start of section B.
- 1.6 The Director of Finance is, for the purposes of Section 151 of the Local Government Act 1972, the ‘designated officer’ responsible for the proper administration of the Council’s financial affairs.
- 1.7 Within these rules, the term Strategic Director includes the Chief Operating Officer. The term “member” includes the elected City Mayor.
- 1.8 These Finance Procedure Rules must be adhered to at all times. All Directors are accountable to the Director of Finance for compliance with these Rules. The Director of Finance is, in turn, accountable to the Council. All Officers with delegated responsibility for undertaking financial duties are accountable to their Divisional Director for compliance with these Rules.
- 1.9 Any waiver of the application of these Rules must be approved by the City Mayor / Executive or by the Director of Finance in consultation with the Elected Mayor). Decisions made by the Director of Finance shall be reported to the City Mayor / Executive for information.

- 1.10 Should a material unauthorised breach of these Rules come to light then it must be reported immediately to the Director of Finance.
- 1.11 These Rules assign responsibilities to Directors and to the Director of Finance, and generally do not assign responsibilities to individual nominated postholders (except, occasionally, where it is helpful to do so). The Director of Finance and Directors may delegate responsibilities assigned to them under these Rules. In particular, the Director of Finance may delegate responsibilities to Heads of Finance in service areas.
- 1.12 Reference in these Rules to “Scrutiny / Select Committee” or “the relevant Scrutiny / Select Committee” means the appropriate Scrutiny Committee as determined by the Director of Finance in consultation with such Members as he/she believes appropriate. Where consideration by a specific Scrutiny / Select Committee is required under these Rules, this is mentioned by name within the Rules.
- 1.13 For the purpose of these Rules, whenever a matter is referred to a Scrutiny / Select Committee for consideration that Committee may resolve to refer the matter to the City Mayor / Executive for a decision. Such referral may contain such recommendations as the Scrutiny / Select Committee sees fit.
- 1.14
- 1.16 In the case of a declared emergency, the Director of Finance may determine that alternative arrangements to those in Finance Procedure Rules shall apply. In particular, the Director of Finance may:
- (a) establish different rules for financial systems (2.0) and financial administration (3.0) to the extent necessary to meet the requirements of the emergency;
 - (b) establish a budget for the emergency, over and above the approved budget;
 - (c) determine which officers may commit the emergency budget, and any rules to apply in managing the budget;
 - (d) authorise any capital expenditure required as a consequence of the emergency”.
- 1.17 In determining arrangements for an emergency, the Director of Finance shall consult the City Mayor if possible.
- 1.18 In the case of a declared emergency, the senior officer responsible for the Council’s response may commit resources prior to alternative arrangements described in paragraph 1.16 being made by the Director of Finance, consulting the Director of Finance if possible”

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2.0 FINANCIAL SYSTEMS

Definition

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

Accounting Systems

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

A & B

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

A & B

2.4 Divisional Directors shall use RMS as the prime means of monitoring expenditure and income in their services and for comparing spending against budget, except where the Director of Finance advises or agrees that alternative arrangements can apply. Divisional Directors shall keep such subsidiary information and records as are necessary

	to effectively monitor expenditure, income and commitments, and to support returns made to the taxation authorities.	
2.5	Divisional Directors shall provide all relevant information deemed necessary to compile the Council's final accounts in accordance with guidance issued by the Director of Finance.	A & B
	<u>All Financial Systems</u>	
2.6	Divisional Directors may not make changes to financial systems without the agreement of the Director of Finance. Proposals for changes in staffing and organisational arrangements relating to financial systems shall also be agreed with the Director of Finance prior to implementation. The Director of Finance may waive these requirements for consultation in circumstances where he or she is satisfied that change will not prejudice the proper administration of the Council's financial affairs. The Director of Finance will normally delegate such permissions to heads of finance.	A & B
2.7	Each Divisional Director shall be responsible for the effective operation of financial systems to the extent that they are operated or controlled within their services and shall ensure proper security and confidentiality including adherence to the requirements of Data Protection and other information legislation.	A & B
2.8	Each Head of Finance shall monitor the effectiveness of financial systems in his or her supported services and shall in particular ensure that financial systems discharge the Director of Finance's duty to ensure that there is proper administration of the Council's financial affairs. Where Heads of Finance believe that systems are ineffective, they shall report the matter to the relevant Divisional Director in the first instance (as a breach of regulation 2.7 above) but shall also report the matter to the Director of Finance if it appears that the matter cannot be satisfactorily resolved.	A & B

3.0 FINANCIAL ADMINISTRATION

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

3.2 Authorised Officers

A & B

3.2.1 Divisional Directors shall authorise appropriate officers to undertake the following duties;

- (a) Raising purchase requisitions, normally on RMS, for works, supplies or services to the extent that contractual arrangements already exist, as described below;
- (b) Certifying, normally on RMS, the receipt of works, supplies or services;
- (c) Approving purchase requisitions, normally on RMS, or other orders, both those for work procured by approved procuring officers, where the person authorising will need to ensure that the order complies with Contract Procedure Rules, and those that relate to existing contractual arrangements;
- (d) Approving personnel variations, time sheets, officer expense claims, petty cash, imprest accounts, change floats, cash advance forms, debtors accounts, internal recharges and end of year stock certificates; and
- (e) Certification for cheques, BACs authorisation, CHAPs authorisation and grant claims.

A, B & C

3.2.2 Officers authorised to raise purchase requisitions under rule 3.2.1 (a) above are (subject to rule 3.2.1.(c) above) authorised to:

- (a) Purchase from existing ESPO catalogues or direct dealing contracts;
- (b) Buy internally from in-house services; and
- (c) Purchase from pre-priced framework contracts, which have been made available through corporate procurement.

A, B & C

A & B

3.2.3 Only officers authorised to procure under arrangements contained within Contract Procedure Rules are entitled to test the market or purchase from select lists. No other officer is entitled to obtain quotations or run a tendering exercise.

A & B

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

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

A & B

3.2.6 Divisional Directors shall maintain, in a single place, an up-to-date record of all approved officers, together with specimen signatures where appropriate, and shall ensure that no employee other than an approved officer carries out the function of an approved officer. Lists of approved officers can be found at:

<http://insite.council.leicester.gov.uk/resources-department/financial-services/corporate-procurement-support-and-income-ser/the-procurement-team/approved-officer-list>

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

3.3 Orders for Works, Supplies and Services

Definitions

3.3.1 In this sub-section of the Council's Finance Procedure Rules the following definitions apply:

A **purchase requisition** is a priced and itemised request, normally created on RMS by an authorised officer, for an official order to be raised.

An **official order** is an order for works, supplies or services, normally created on RMS following the approval of a purchase requisition by an authorised officer.

A & B

A **payments register** is a formal record of routine payments for recurring charges.

Rules

3.3.2 The Director of Finance is responsible for providing a corporate system

C

<p>for raising purchase requisitions and creating official orders (RMS). This system shall be used for all official orders, except in emergencies, or in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.</p>	
<p>3.3.3 Official orders shall be issued for all purchases, excluding the following items:</p> <ul style="list-style-type: none"> i. Purchases through petty cash and imprest accounts. ii. Recurring charges such as gas, electricity and telephone charges and other charges for which a payments register or other method of recording/monitoring payments is more appropriate than an order. 	<p>C</p> <p>A & B</p> <p>C</p>
<p>3.3.4 Purchase requisitions shall only be raised and approved by authorised officers. This approval process shall be used to create an official order.</p>	<p>C</p>
<p>3.3.5 In those exceptional circumstances in which the corporate system is not used, Divisional Directors shall only obtain official order forms in accordance with arrangements approved by the Director of Finance and shall be responsible for their control and use.</p>	
<p>3.3.6 Where urgent orders are given orally, they shall be confirmed immediately by an official order.</p>	<p>C</p>
<p>3.3.7 Official orders should be specific, e.g. they should state quantity, weight, size, grade, quality, and where practicable, price. Where supplies are ordered under contract, it is particularly important that the order and contract have the same specification of supplies required.</p>	
<p>3.4 Payments for Works, Supplies and Services</p>	<p>C</p>
<p>3.4.1 Payment for works, supplies and services may only be made:</p> <ul style="list-style-type: none"> (a) On receipt of an invoice or contract certificate which satisfies VAT regulations; or (b) Where liability for payment by the Council is clearly established. 	<p>A, B & C</p>
<p>3.4.2 No payment for works, supplies or services shall be made unless the works, supplies or services have been certified as received by an authorised officer. This certification will normally be done using RMS</p>	<p>B & C</p>
<p>3.4.3 The Director of Finance is responsible for providing a corporate system for the payment of accounts (RMS) Divisional Directors shall use this system for all payments except in accordance with other</p>	

<p>arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure that the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.</p>	
<p>3.4.4 Authorised officers shall ensure that payments for works, supplies or services are not made unless:</p>	
<p>(a) Works, supplies or services have been supplied in accordance with an official order, and the amount invoiced is correctly payable. The official order number should be quoted on the invoice.</p>	<p>A & B</p>
<p>(b) Payment is in respect of a service regularly supplied (e.g. gas and electricity), and the amount invoiced is properly payable; or</p>	
<p>(c) Payment is made for works, supplies or services under contract, and the amount is properly payable under the terms of that contract.</p>	<p>A, B & C</p>
<p>3.5 Salaries and other payments to employees</p> <p><u>Rules</u></p>	<p>A, B & C</p>
<p>3.5.1 The Director of Finance is responsible for approving a corporate payroll system for recording payroll data and for generating payments to employees. The Director of Finance is also responsible for ensuring that National Insurance, Income Tax and any other such liabilities are properly determined and that deductions due are made and properly accounted for.</p>	<p>A, B & C</p>
<p>3.5.2 Divisional Directors shall use the corporate payroll system for all payments to employees.</p>	
<p>3.5.3 Where payments are made for services in which the relevant taxation authorities deem that a contractor is “employed” by the Council, Divisional Directors are responsible for ensuring that National Insurance, Income Tax and any other such liabilities are properly determined, and deductions due are made and properly accounted for.</p>	
<p>3.5.4 Except where employees are responsible for providing data directly themselves, Divisional Directors are responsible for ensuring that all information affecting an employee’s entitlement to pay, or rate of pay, and all other information required for the smooth operation of the corporate payroll, shall be notified to the Employee Service Centre. This shall be done by means of direct input to the corporate payroll system or by means of a form, in either case following procedures approved by the Director of Finance. In either case, Divisional Directors shall make arrangements for data supplied to be verified and authorised by an authorised officer. In particular the following</p>	

<p>shall be notified:</p>	
<p>i. Appointments, resignations, dismissals, suspensions, secondments and transfers;</p>	<p>B & C</p>
<p>ii. Changes to standing data held on the payroll system;</p>	
<p>iii. Absences from duty for sickness or other reason, apart from approved leave;</p>	
<p>iv. Changes in remuneration, other than normal increments, pay awards and any agreements generally reached, and notified separately to the Director of Finance; and</p>	<p>A, B & C</p>
<p>v. Information necessary to maintain records of service for superannuation, Income Tax, National Insurance and related purposes.</p>	
<p>3.5.5 All time records or other paper documents affecting entitlement to salaries and wages on any specific occasion shall be in a form approved by the Director of Finance and shall be processed in accordance with procedures specified by the Director of Finance. These documents shall be signed by the employee and certified as correct by an authorised officer. Alternatively, the Director of Finance may require such documents to be submitted electronically.</p>	
<p>3.5.6 All claims for payment of car allowances, travelling and subsistence allowances, removal expenses and the like shall be submitted in an approved form to the Director of Finance for payment and be certified as correct by an authorised officer. Alternatively, the Director of Finance may require such documents to be submitted electronically.</p>	<p>B & C</p>
<p>3.5.7 All claims for the payment of Councillors' allowances and expenses shall be submitted in a form specified by the Director of Finance which complies with statutory requirements, and certified as correct by an authorised officer. Alternatively, the Director of Finance may require such documents to be submitted electronically.</p>	
<p>3.5.8 The Monitoring Officer has discretion to make monetary advances to Councillors and officers on account of expenses to be incurred, at the request of a Director. Councillors and Officers who receive advances on account of expenses shall repay them in accordance with the terms of the advance.</p>	
<p>3.5.9 Any other benefits provided to employees, in particular benefits in kind rather than in cash, but also including such things as payments received by staff for Jury Service, may/will also be taxable and/or liable to National Insurance contributions, and may also be subject to a deduction from pay. The responsibility for identifying any liabilities in this respect is with each Divisional Director who should seek advice</p>	<p>A & B</p>

	from the Director of Finance where appropriate.	
3.6	Income	
3.6.1	In this sub-section of the Finance Procedure Rules, money means all cash, cheques, or other forms of payment including credit/debit cards.	A, B & C
	Credit Income	A & B
3.6.2	The Director of Finance is responsible for approving a corporate invoicing system (RMS). Divisional Directors shall use this system for all credit income except in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure that the alternative arrangements provide for effective financial control, meet with the requirements of the appropriate taxation authorities.	A & B
3.6.3	Divisional Directors are responsible for ensuring that all debts due to the Council are promptly and accurately raised and either collected in money (or other forms of immediate payment) or invoiced.	
3.6.4	The Director of Finance is responsible for collecting all income invoiced via the corporate invoicing system, or for writing-off debt as non-collectable under the provisions of these Rules.	A, B & C
3.6.5	Divisional Directors are responsible for making changes to fees and charges in order to fulfil their obligations under FPR 4.4.3 below. Such changes only need to be referred to the relevant Scrutiny Committee for consideration and comment at the discretion of the relevant Strategic Director.	C
3.6.6	Divisional Directors shall advise the Director of Finance of any new sources of income which are exempt from VAT, and of material change to existing sources of income which are exempt from VAT.	B & C
	Cash Income	
3.6.7	Officers responsible for the collection of money shall ensure that money collected is recorded and banked without undue delay.	A & B
3.6.8	Subject to the following Rules, all receipt forms, tickets and other types of controlled stationery by which income is acknowledged shall be ordered and supplied to divisions by the Director of Finance; and Divisional Directors shall be responsible for the safe custody of such documents.	C
3.6.9	Receipts and other forms of controlled stationery which are specific to a particular function may be ordered and controlled by the appropriate Divisional Director, in accordance with arrangements approved by the Director of Finance.	

<p>3.6.10 All cash received must be acknowledged at once by the issue of an official receipt or ticket, or an entry on a payment card provided for the purpose. No officer or agent of the Council shall give a receipt for cash received on behalf of the Council in any form other than an official receipt. No acknowledgement need be given for payment by cheque, however, unless requested by the debtor.</p>	<p>C</p>
<p>3.6.11 All money received must be accounted for and paid into an approved bank account, either directly, or via Cash Collection centres at New Walk Centre or the Area Housing Offices, on the day of the receipt, or as soon as practicable thereafter, dependent on the values involved and arrangements for the safe custody of cash (i.e. ensuring insurance value limits are not exceeded). An officer may on <u>no</u> account borrow any money temporarily for their own use, nor should they, except in the case of expenses they incur whilst travelling on Council business, make payments on behalf of the Council from their own pocket. Arrangements may be made with the Director of Finance for an officer who is handling small sums to bank less frequently.</p>	<p>C</p>
<p>3.6.12 An officer is responsible for the safe custody of any money she or he has received until it has been balanced and banked or handed over to another officer for banking. If the money is handed over to another officer, a receipt should be obtained from the officer receiving it. If the money is in a sealed container, the officer should obtain a receipt for the container.</p>	<p>C</p>
<p>3.6.13 Whilst money is in their custody, officers should, at no time, leave it unattended unless it is locked in a safe place, to which the officer alone has access, and which fulfils insurance requirements.</p>	<p>C</p>
<p>3.6.14 All officers who pay money into any of the Council's bank accounts shall list the amount of every cheque on the paying-in slip and the counterfoil or duplicate, together with some reference, such as an account number, which will connect the payment with the debt; or failing this, the name and address of the debtor.</p>	<p>C</p>
<p>3.6.15 Cash received by officers on behalf of the Council shall not be used to cash postal orders, personal or other cheques.</p>	
<p>3.6.16 The Director of Finance is responsible for approving all systems for the processing of payments by debit, credit and top up payment cards.</p>	<p>B & C</p>
<p>3.7 Write-Off of Debts</p>	
<p>3.7.1 No debt properly due to the Council shall be discharged otherwise than by:</p> <p>i. payment in full;</p>	<p>A & B</p>

<p>ii. write-off.</p>	
<p>3.7.2 Subject to conditions set out below, all debts which a Divisional Director or the Director of Finance has been unable to recover at reasonable effort and expense and for which normal recovery processes have been exhausted, shall be referred without delay to the Head of Legal Services.</p>	<p>A & B</p>
<p>3.7.3 Debts may be written off as follows:</p>	
<p>i. By the relevant Divisional Director or Director of Finance for debts up to £2,000;</p>	
<p>ii. By the Head of Legal Services for debts above £,2000, subject to periodic reporting of such action to the Overview Select Committee.</p>	
<p>provided that: there is a properly established, enforceable debt, which remains unpaid in whole or in part, and is irrecoverable at reasonable effort and expense, or is remitted by a competent court. In the event that there is reason to believe that the cause of any debt being irrecoverable is attributable to fraud, theft, irregularity or the negligence of an employee, the Strategic or Divisional Director shall refer the matter to the Head Of Audit (HoA) under FPR 7.3.3. The debt shall not be written off until any necessary investigative or other action has been agreed by the Strategic or Divisional Director and the HoA.</p>	<p>B</p>
<p>3.7.4 The Director of Finance or Head of Legal Services may also write down to £1 any debt subject to insolvency proceedings pending resolution of the case, provided that s/he shall report periodically such actions to the Overview Select Committee.</p>	<p>A & B</p>
<p>3.8 Monitoring of Income Collection</p>	
<p>3.8.1 The Director of Finance shall report twice a year to the Overview Select Committee on progress with the collection of the Council's income, with particular reference to the arrears outstanding in respect of each main class of income, debts written-off and action being taken to recover or reduce those arrears.</p>	
<p>3.9 Banking Arrangements</p>	
<p>3.9.1 In this sub-section of the Finance Procedure Rules, the Council's main bank accounts are all bank accounts maintained by the Council other than those operated solely for specific establishments or purposes.</p>	<p>A & B</p>
<p>3.9.2 The Director of Finance is responsible for operating the Council's main bank accounts. Divisional Directors may open and maintain other Council bank accounts for specific purposes in accordance with</p>	<p>A & B</p>

<p>arrangements specifically approved by the Director of Finance, or, for schools, in accordance with the Scheme for Financing Schools.</p> <p>3.9.3 The Director of Finance is responsible for ensuring that regular and complete reconciliations are carried out, for all the main bank accounts, of balances held to financial records maintained. Divisional Directors are responsible for ensuring that regular and complete reconciliations are carried out of all other Council bank accounts maintained by them. Arrangements for carrying out such reconciliations shall be in a form specifically approved by the Director of Finance.</p>	<p>A & B</p>
<p>3.9.4 All cheques (except imprest cheques) for the Council's main bank accounts shall be produced directly from RMS in a format approved by the Director of Finance, who shall make proper arrangements for the preparation and despatch of the cheques, and for the custody of blank cheques.</p>	<p>A & B</p>
<p>3.9.5 Imprest cheques shall be ordered and controlled by the Director of Finance who shall make proper arrangements for the safe custody of blank cheques and the preparation, signing and despatch of the cheques. Divisional Directors shall ensure that for all other Council bank accounts cheques are held, prepared, signed and despatched in a form approved by the Director of Finance.</p>	
<p>3.9.6 All cheques drawn on the Council's main bank accounts shall bear the pre-printed signature of the Director of Finance or, in the case of imprest cheques, be signed by the Director of Finance or signatory authorised by him or her. Cheques drawn on any other Council bank accounts should be signed by an authorised officer.</p>	<p>A & B</p>
<p>3.9.7 The Director of Finance is responsible for ensuring that all payments made from the main bank accounts by way of Clearing House Automated Payments (CHAPs) and Bankers Automated Credits (BACs) transactions are properly controlled and suitably authorised.</p>	
<p>3.9.8 The Director of Finance is responsible for sanctioning the issue of Corporate Credit Cards to staff and members and for reconciling expenditure incurred to the main bank accounts. Divisional Directors are responsible for ensuring that staff use the cards in accordance with procedures issued, including the provision of valid receipts to support the expenditure incurred. Where Corporate Credit Cards are not used in accordance with stipulated procedures then the Director of Finance may withdraw the arrangement.</p>	
<p>3.10 Cash Advances, Petty Cash floats and Imprest accounts</p> <p><u>Definitions</u></p>	

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

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

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

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

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

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

A & B

Rules

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

A & B

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

A & B

A, B & C

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

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

<p>imprest account holder shall obtain cash vouchers for all payments made, and such cash vouchers shall adequately record any VAT incurred and have VAT receipts attached. The person receiving the cash sum shall sign the voucher.</p>	<p>A, B & C</p>
<p>3.10.6 When a petty cash float /imprest account needs replenishing, the petty cash float /imprest account holder shall summarise payments made on a record in a form approved by the Director of Finance. The record must be certified as correct by an authorised officer, who must check the petty/imprest cash book, the cash vouchers and any cash held. The completed record, and such other documentation as the Director of Finance shall require, shall be presented to the Director of Finance for reimbursement.</p>	<p>C</p>
<p>3.10.7 Each petty cash float /imprest account must be kept in a lockable box to which the petty cash/imprest account holder alone has access. The box shall be kept securely, for example in a lockable cupboard or safe, in accordance with arrangements specified by the Director of Finance (Specific requirements for Insurance cover must be met).</p>	<p>C</p>
<p>3.10.8 On ceasing to hold a petty cash float /imprest account, the petty cash /imprest account holder must produce the petty/imprest cash book, vouchers and any unspent balance to an authorised officer for checking and retention. The advance will then be handed over to a successor nominated by the Divisional Director, or returned to the Director of Finance.</p>	<p>C</p>
<p>3.10.9 Petty cash float /imprest account should only be used for small transactions where it is quicker and more efficient to buy the goods locally rather than by official order.</p>	<p>C</p>
<p>3.10.10 Travelling, subsistence and post-entry training expenses should be reimbursed through the appropriate allowance payment systems, and not from petty cash float /imprest account.</p>	<p>C</p>
<p>3.10.11 No income should be paid into a petty cash float/imprest account.</p>	<p>B & C</p>
<p>3.10.12 For the purposes of closure of the Council's accounts each financial year end, the Director of Finance will require a certificate from each petty cash float /imprest account holder, which should be countersigned by an authorised officer, providing such details as the Director of Finance shall specify.</p>	<p>A & B</p>
<p>3.10.13 Divisional Directors shall keep up-to-date records of petty cash float / imprest account holders.</p>	<p>A & B</p>
<p>3.11 Stocks and Stores</p>	
<p>3.11.1 Divisional Directors may hold stocks of consumable items; materials; and equipment for use in the maintenance of assets under their</p>	<p>A & B</p>

<p>control and the provision of services. They are responsible for the receipt, custody and issue of stock items for their functions and for maintaining suitable records which comply with any guidance given by the Director of Finance. Divisional Directors shall ensure that arrangements to operate their own stores continue to represent value for money to the Council as compared to obtaining materials direct from suppliers.</p>	<p>A & B</p>
<p>3.11.2 Divisional Directors shall ensure that stock items are effectively safeguarded from loss, theft or damage.</p>	<p>A, B & C</p>
<p>3.11.3 Divisional Directors shall arrange for a periodic stock-take to be undertaken independently of the employees responsible for the custody of those stocks, such that the existence and value of all items are checked at least once a year. The write-off of deficiencies or adjustments related to individual stock items may be authorised as follows:</p> <p>i. By the relevant Divisional Director for write-offs which do not exceed £5,000, subject to an overall limit equivalent to 5% of total opening stock; and</p> <p>ii. By the Director of Finance for write-offs in excess of £5,000 subject to periodically reporting the write-offs to the Overview Select Committee.</p>	<p>A & B</p>
<p>3.11.4 The value of stocks held at 31st March each year shall be certified by an authorised officer and supplied to the Director of Finance in such form and at such time as may be decided by the Director of Finance.</p>	
<p>3.11.5 Surplus and obsolete stocks and stores must be disposed of by Divisional Directors on the best terms possible. Divisional Directors shall comply with any guidance given by the Director of Finance in respect of identification of the fact that stock is surplus or obsolete. Where such items are not disposed of and or sold to a company under contractual terms, they may, when judged best, and, subject to independent check, be offered for sale to staff, provided that permission to proceed is first obtained from the Risk Management Section (x 297465) and that subject to that permission, the sale is advertised to as many staff as possible (e.g. using the intranet) for a reasonable length of time (i.e. no less than 4 weeks).</p>	<p>A, B & C</p>
<p>3.11.6 All devices that could contain data (e.g. PCs, laptops, mobile phones, hand held communication devices, memory sticks etc.) must be disposed of through ICT.</p>	<p>B & C</p>
<p>3.11.7 Any disposals shall be recorded by the Divisional Director concerned and records maintained.</p>	<p>B & C</p>
<p>3.12 Asset Register and inventories</p>	

<u>Definition</u>	
3.12.1	<p>In this sub-section of the Council's Finance Procedure Rules, the following definitions shall apply:</p> <p>An asset register is a register of all significant assets owned by the Council, which is maintained by the Director of Finance for statutory accounting purposes.</p> <p>An inventory is a record of all plant, machinery, vehicles, equipment and other assets under the custody of Divisional Directors, including assets the Council does not own outright. It should aid effective control of such assets and can support the management of risk of loss or damage.</p>
	A & B
<u>Rules</u>	
3.12.2	The Director of Finance shall have access to all inventories and other records maintained by Divisional Directors for the purposes of compiling and maintaining an asset register in accordance with the relevant accounting regulations.
3.12.3	Divisional Directors will maintain inventories and other records to support the asset register in a format agreed by the Director of Finance. Any individual items of plant, machinery, equipment and other assets that are capitalised will be included in the asset register.
	A & B
3.12.4	The Director of Finance will also specify what other inventories and records need to be maintained by Divisional Directors in order to help safeguard the items recorded in it from loss, theft or damage.
	A & B
3.12.5	Divisional Directors shall be responsible for carrying out an annual check of all items on all inventories and other records of equipment maintained. Based on original cost, the write-off of deficiencies may be authorised as follows:
	A & B
	<p>By the relevant Divisional Director for amounts not exceeding £2,000</p> <p>ii. By the Director of Finance for amounts exceeding £2,000 subject to periodically reporting the write-offs to the Overview Select Scrutiny Committee.</p>
	A & B
3.12.6	Any significant variations should be investigated and reported to the Director of Finance for insurance purposes, with consideration given to reporting the matter to the Director of Finance as a suspected irregularity, under Section 7 of the Finance Procedure Rules.
3.12.7	With the exception of portable IT and communication devices issued to individual officers to assist them in undertaking their duties, assets

<p>in the custody of the City Council shall not be removed from Council premises, other than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes, except where specifically authorised by the appropriate Divisional Director.</p>	<p>A, B & C</p>
<p>3.12.8 Surplus or obsolete items should initially be offered for use elsewhere in the Council, and where not required, disposed of by Divisional Directors on the best possible terms. Where items are to be disposed of for a sum which is less than current value, by an amount which exceeds £2,000, then this shall be authorised by the Director of Finance, subject to periodically reporting the disposals to the Overview Select Committee. Where such items are not disposed of and or sold to a company under contractual terms, they may, when judged best, and, subject to independent check, be offered for sale to staff, provided that permission to proceed is first obtained from the Risk Management Section (x 297465) and that subject to that permission, the sale is advertised to as many staff as possible (e.g. using the intranet) for a reasonable length of time (i.e. no less than 4 weeks).</p>	<p>A, B & C A & B</p>
<p>3.12.9 All devices that could contain data (e.g. PCs, laptops, mobile phones, hand held communication devices, memory sticks etc.) must be disposed of through ICT.</p>	
<p>3.12.10 Any disposals shall be recorded by the Divisional Director concerned and records maintained.</p>	
<p>3.12.11 Divisional Directors shall advise the Director of Finance of the disposal of items for which an adjustment is required to an asset register.</p>	<p>A, B & C</p>
<p>3.13 Buildings and Land</p>	
<p>3.13.1 The Divisional Director responsible for housing shall maintain records of all dwellings and other buildings erected or acquired under the Housing Acts, and the Divisional Director (Strategic Asset Management) shall maintain records of all other land and properties owned or occupied by the Council.</p>	<p>A, B & C A & B</p>
<p>3.13.2 The Divisional Director responsible for housing shall maintain records of tenancies granted in respect of premises managed by the Housing Service, and the Divisional Director (Strategic Asset Management) shall maintain records of all other tenancies.</p>	
<p>3.13.3 The Head of Legal Services shall have custody under secure arrangements of all title deeds, land certificates, leases, tenancy agreements and contracts and associated bonds under seal (and any other such documents). The Divisional Director responsible for housing shall have custody of agreements relating to the tenancy of</p>	<p>A & B</p>

	A & B
<p>3.13.4 Terms of disposal should not be finalised without the benefit of a current valuation undertaken by the Divisional Director (Strategic Asset Management) or a suitable firm of valuers appointed under arrangements approved by that Director. The terms of disposal must also take account of the taxation implications to the Council of the disposal.</p>	A
<p>3.13.5 Except in the case of dwellings within the Housing Revenue Account, no property should be disposed of without the prior consultation and agreement of the Divisional Director (Property) or their designated representative.</p>	A, B & C
<p>3.13.6 Where disposal to an existing tenant takes place, the relevant Divisional Director shall ensure that all outstanding rent and local taxes have been discharged before the transfer takes place.</p>	A & B
<p>3.14 Risk Management and Insurance</p>	
<p>3.14.1 The Director of Finance is responsible for ensuring that the Council's risks are adequately assessed, and for arranging external insurance cover or making alternative arrangements to provide for potential future liabilities and losses.</p>	A & B
<p>3.14.2 Divisional Directors shall advise the Director of Finance of all risks, and changes to risks, in accordance with procedures specified by the Director of Finance. Strategic and Divisional Directors are not authorised to arrange insurance cover except via the Director of Finance.</p>	
<p>3.14.3 Formal identification of key risks which could threaten identified service or Council objectives must be carried out using a risk management process approved by the Director of Finance. Identified risks and any remediable actions are to be agreed as part of the process which will include costs and timescales for action. Divisional Directors shall maintain operational risk registers and ensure that they are kept up to date and monitored on a quarterly basis, reporting significant divisional risk / projects to the Director of Finance.</p>	A & B
<p>3.14.4 Any damage, loss or other event which may lead to an insurance claim shall be notified immediately to the Director of Finance. No action should be taken or undertaking given by any officer which would prejudice the Council's position in making an insurance claim. Failure to inform the Director of Finance of any changed circumstances could affect the validity of the insurance cover.</p>	A, B & C
<p>3.14.5 Divisional Directors are responsible for ensuring compliance with the terms of any relevant insurance policy and for implementing any other advice given by the Director of Finance on the management of</p>	

insured and uninsured risks.

B & C

A & B

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4.0 REVENUE BUDGETS

GENERAL FUND AND HRA BUDGETS

4.1 General

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

4.2 Definitions

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

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

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

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

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

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

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

- (a) authority given to the Mayor and directors to vary budget ceilings;
- (b) authority to commit monies held in corporate budgets;
- (c) authority to create, add sums to, and commit sums held in, earmarked reserves.

4.3 Setting a Budget

4.3.1 The Council shall set a budget each year when considering a recommendation of the City Mayor. The recommended budget shall, as

a minimum, contain:

- (a) the proposed council tax requirement;
- (b) the proposed band D council tax;
- (c) budget ceilings for individual services and the departmental budget each forms part of;
- (d) a scheme of virement.

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

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

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

4.4 Incurring Expenditure and Collecting Income

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

4.4.2 Strategic directors are responsible for collecting budgeted income.

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

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

4.5 Controlling Expenditure and Income

4.5.1 Each strategic director is responsible for:

- i. managing the cost of each of his/her services within the

provision contained within each budget ceiling;

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

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

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

4.5.4 Cost centre managers are responsible for ensuring that the budget for which they are responsible is not overspent (or under-recovered) and are accountable to their strategic directors (through normal line management arrangements) in this regard.

4.6 Reserves

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

4.6.2 Each department shall have a carry forward reserve.

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

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

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

4.7 Monitoring Expenditure

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

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

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

4.7.4 Each strategic director shall report progress on the implementation of his/her departmental budget to the Director of Finance, in such manner and to such timescales as the Director of Finance specifies.

4.7.5 The City Mayor/Executive shall hold strategic directors to account for their management and use of resources and may seek explanatory information from strategic directors as it sees fit.

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

4.8 Reporting the Outturn

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

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

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

TRADING ORGANISATIONS

4.9 Definitions

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

- i. a **trading organisation** is a part of the Council to which these Rules apply as determined from time to time by the Council (and which makes income from selling its services either inside or outside the Council);
- ii. a **retained surplus** is a trading surplus earned by a trading organisation which they are permitted to retain under these

Finance Rules.

4.10 General

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

4.11 Budget Setting

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

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

4.12 Accounting Records

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

4.13 Budget Management

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

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

- i. to reduce the costs of the organisation;
- ii. to seek alternative sources of income;
- iii. to supply additional chargeable work in accordance (in the case of internal clients) with arrangements set prior to the beginning of the year (see above);
- iv. to reduce the budgeted return of the organisation (this will usually involve creating a deficit budget).

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

which he/she is responsible.

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

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

4.14 Surpluses

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

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

5.0 CAPITAL PROGRAMME

5.1 Definitions

In this section of Finance Procedure Rules:

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

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

Corporate Resources are all capital resources other than service resources.

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

Programme Areas are groups of capital schemes within which the Council permits directors to reallocate resources, as determined by the Council when it approves the capital programme.

5.2 Capital Programme

5.2.1 The Director of Finance is responsible for recommending a capital programme to the City Mayor . He/she may recommend the programme as a whole, or authorise individual directors to recommend parts of the programme.

A & B

5.2.2 The capital programme may consist of:

- (a) schemes for which specific sums of money are provided based on cost estimates;
- (b) provisions for later decision by the City Mayor or;
- (c) a combination of the two.

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

A & B

5.2.4 The capital programme approved by the Council shall determine:

- (a) the extent to which the programme can be changed or added to by the City Mayor, and the extent to which other decisions about deployment of resources can be taken by the City Mayor;

A & B

A & B

<p>(b) the extent to which directors are authorised to commit expenditure.</p>	
<p>5.2.5 When submitting a capital programme to the City Mayor, the Director of Finance (or director as the case may be) shall identify the following:</p> <ul style="list-style-type: none"> • The revenue consequences of any unsupported borrowing; • The revenue consequences of any schemes apart from the cost of borrowing; • The extent to which borrowing is affordable, sustainable and prudent with reference to such indicators as the Director of Finance believes appropriate; • The extent of any pre-commitment of capital resources in years beyond the plan; • Where directors are authorised to commit expenditure on a scheme, the title of the director; • The extent to which any schemes are grouped into programme areas. 	
<p>5.2.6 The Director of Finance shall determine how controllable budgets are charged for any projects that are funded by borrowing in respect of capital consumption and interest.</p>	<p>A & B</p>
<p>5.3 Additions and Amendments to Capital Programme by Directors</p>	
<p>5.3.1 Directors can add schemes to the capital programme provided the total cost of a new scheme is below £250,000 and totally funded from service resources.</p>	<p>A & B</p>
<p>5.3.2 Directors can amend the approved programme by:</p> <ol style="list-style-type: none"> (a) transferring resources within programme areas; (b) viring resources between schemes in their approved capital programme, or by using additional service resources, provided any increased costs or virement are below £250,000. 	
<p>5.3.3 Additions and amendments made by directors shall be reported to the City Mayor/Executive as part of the next capital monitoring report (see paragraph 5.6).</p>	<p>A & B</p>
<p>5.4 Incurring expenditure</p>	
<p>5.4.1 The approved capital programme shall specify the authority given to directors and the City Mayor to commit expenditure.</p>	
<p>5.4.2 No expenditure may be incurred on a scheme funded by grant or third party contributions without written confirmation of these resources.</p>	<p>A & B</p>
<p>5.5 Cost increases</p>	

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

5.6 Capital Monitoring

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

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

A & B

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

A & B

5.7 Carry forward of resources

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

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

5.8 Capital receipts

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

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

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6.0 TREASURY MANAGEMENT

6.1 General

- 6.1.1 All Treasury Management activities will be conducted in accordance with the Authority's Treasury Management Policy as approved from time to time by the Council.
- 6.1.2 The Director of Finance shall review and seek Council approval, to a revised Treasury Management Policy at least every 3 years.
- 6.1.3 The performance of the Treasury Management function shall be reported periodically to the Overview Select Committee.

6.2 Loans

- 6.2.1 All borrowing shall be undertaken by the Director of Finance. Strategic and Divisional Directors do not have authority to borrow money.
- 6.2.2 At the beginning of each year, the Director of Finance shall seek the approval of the City Mayor / Executive I to a Treasury Strategy for the year. The Strategy, which shall comply with the approved policy, shall identify the Authority's strategy for borrowing and lending during the financial year. A & B
- 6.2.3 The Director of Finance is responsible for ensuring that loans are effected in the Authority's name to meet the needs of the Authority on the most economic terms. All borrowing shall comply with the Council's Treasury Strategy.
- 6.2.4 The Authority's Register of Stock, Bonds and Mortgages shall be the Director of Finance unless otherwise approved by the City Mayor / Executive in respect of any specific debt, and the Director of Finance is responsible for maintaining records of money borrowed by the Authority.

6.3 Leasing of Assets

- 6.3.1 This sub-section of the Council's Finance Procedure Rules applies to all leasing of assets other than land and buildings.
- 6.3.2 The Director of Finance is responsible for securing agency status where necessary for the acquisition of leased assets with a financial company or broker, and shall from time to time make arrangements to lease various assets required by the Council where this is financially advantageous.. The Director of Finance shall comply with the relevant Contract Procedure Rules and Finance Procedure Rules when securing a company or broker or when leasing assets. Except where specified below the Director of Finance shall: B

<p>i. arrange all leases of assets entered into by the Authority;</p> <p>ii. negotiate all lease extensions and terminations;</p> <p>iii. negotiate arrangements with lessors for the disposal of unwanted assets;;</p> <p>iv. maintain records of all leases entered into by the Authority.</p> <p>6.3.3 Divisional Directors may request the Director of Finance to arrange leases for specific items. Strategic and Divisional Directors are not permitted to negotiate or enter into leases except in the following circumstances:</p> <p>i. short term lease or hire arrangements for a period of one year or less;</p> <p>ii. leases for specialist equipment where the Director of Finance has agreed that such leases can be entered into without further reference to him/herself.</p> <p>iii. arrangements for leases of equipment which are inclusive of a specialist repair and maintenance contract.</p> <p>6.3.4 Where Divisional Directors enter into leases under the provisions of the above regulation, they may also terminate or extend such leases after consultation with the Director of Finance.</p> <p>6.3.5 Divisional Directors are responsible for the following in respect of leased assets:</p> <p>i. establishing appropriate insurance arrangements for leased assets;</p> <p>ii. receipt of goods / assets to be leased;</p> <p>iii. recording leased assets on divisional inventories of assets in accordance with Finance Procedure Rules on financial administration;</p> <p>iv. ensuring assets are safeguarded during the period of the lease, and complying with all obligations under the lease in respect of the asset;</p> <p>v. notifying the Director of Finance of the loss of any leased asset;</p> <p>vi. arranging the disposal of unwanted leased assets in accordance with the lessor's instructions at the expiry of a lease.</p> <p>6.3.6 Divisional Directors shall not dispose of any assets during the period of a lease without consulting the Director of Finance, and shall be responsible for meeting costs of any early termination or similar charges.</p> <p>6.4 Investments</p> <p>6.4.1 At the beginning of each financial year, the Director of Finance shall seek the approval of the City Mayor / Executive to an annual investment strategy for that year.</p>	<p>A & B</p> <p>A & B</p> <p>A & B</p> <p>A & B</p>
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6.4.2 The Director of Finance shall make arrangements for the investment and management of all of the Authority's cash balances (including schools except where they opt out) in accordance with the Annual Investment Strategy, except in respect of any specific cash balances where other arrangements are approved by the City Mayor / Executive .

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

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7.0 INTERNAL AUDIT

7.1 General

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

A & B

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

7.2 Audit Planning and Reporting

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

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

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

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

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7.2.5 For the purposes of carrying out an audit or investigation, Internal Auditors are authorised to:

- i. have access at all times to any City Council premises and property;
- ii. have access to all data, records, documents and correspondence relating to any financial or any other activity

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<p>of the City Council;</p> <p>iii. have access to any assets of the City Council;</p> <p>iv. require from any member, employee, agent, partner, contractor or other person engaged in City Council business any necessary information and explanation.</p>	<p>A, B & C</p>
<p>These rights of access include access to relevant records (whether electronic or otherwise) held by service providers. They apply to Council services provided under contracts and partnership arrangements of all kinds including joint and pooled arrangements. This right of access shall be incorporated within all relevant contract or service agreement documents involving City Council services provided other than internally. It applies to all internal auditors legitimately engaged on Leicester City Council Internal Audit business, whether they are employees of Internal Audit or are provided under an authorised agency or other contract or partnership.</p>	<p>A, B & C</p>
<p>7.2.6 Internal Audit shall remain at all times free from undue influence or other pressure affecting its actions and reporting.</p>	
<p>7.2.7 Internal Audit shall report in its own name to the Director of Finance. The Head of Audit has the right to report directly to the City Mayor) if, in his opinion, there are matters of concern that could place the Council in a position where the risks it faces are unacceptable</p>	<p>A, B & C</p>
<p>7.2.8 From time to time, the Head of Audit shall report to the Audit Committee on progress made in delivering the Internal Audit Operational Plan.</p>	<p>A & B</p>
<p>7.2.9 Implementation of the recommendations made in internal and external audit reports shall be monitored by the Audit Committee. Strategic and Divisional Directors are accountable to the Audit Committee for ensuring that appropriate action is taken in accordance with those recommendations.</p>	<p>A & B</p>
<p>7.2.10 The Director of Finance shall report annually to the Audit Committee on the provision of the Internal Audit service. In addition, the Director of Finance shall report to the Audit Committee on the annual review of the effectiveness of the Council's system of internal audit</p>	<p>A & B</p>
<p>7.3 Divisional Directors' Responsibilities in respect of financial control and irregularities</p>	<p>A & B</p>
<p>7.3.1 All Divisional Directors shall maintain proper financial controls in financial systems operated within their area of responsibility (see section 2 of these rules) and shall be responsible for the prevention, detection and resolution of fraud and irregularities.</p>	<p>A & B</p>

<p>7.3.2 Divisional Directors shall cooperate fully at all times with Internal Audit and ensure that Internal Audit can properly fulfil its role. Any disputes or non-cooperation may be referred to the Director of Finance and ultimately the Audit Committee for resolution.</p>	
<p>7.3.3 Immediately any actual or potential financial irregularity affecting the Council is known or suspected, the appropriate Strategic or Divisional Director shall inform the Head of Audit and make proposals in respect of any further investigation that may be required (and the extent of any support required from Internal Audit) and make proposals in respect of other action to be taken.</p>	<p>A & B</p>
<p>7.3.4 If the proposals are acceptable to the Director of Finance, Strategic and Divisional Directors shall carry out the proposed actions. Otherwise, alternative proposals shall be made.</p>	<p>A & B</p>
<p>7.3.5 Strategic and Divisional Directors are responsible for taking appropriate action on receipt of recommendations from Internal Audit, either as a consequence of a planned or specially commissioned review or an investigation into a suspected fraud or financial irregularity.</p>	<p>A, B & C</p>
<p>7.4 Investigations</p>	<p>A & B</p>
<p>7.4.1 The Director of Finance shall ensure that every case where there are grounds for suspicion of fraud or financial irregularity is considered, and that proposals for action (where appropriate) are made by Strategic or Divisional Directors. The Director of Finance reserves the right to investigate any suspected fraud or irregularity via the Internal Audit Service.</p>	<p>A & B</p>
<p>7.4.2 All action taken shall comply with the Council's Anti-Fraud and Corruption Policy Statement and Prosecutions Policy as adopted and approved by the Audit Committee.</p>	<p>A & B</p>
<p>7.4.3 In respect of investigations into suspected Housing and Council Tax benefits fraud, the Director of Finance, or another person authorised by the Director of Finance for this purpose, shall have full discretion to determine the appropriate course of action, including referral to Legal Services or the Police for consideration of prosecution.</p>	<p>A & B</p>
<p>7.4.4 In all other cases, referral to the Police shall only be made after full consultation with the appropriate Strategic or Divisional Director and the Monitoring Officer.</p>	<p>A & B</p>
	<p>A & B</p>

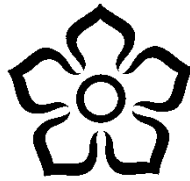
8. DOCUMENT RETENTION

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

This can be viewed by clicking on the hyperlink below

<http://insite.council.leicester.gov.uk/Easysite/lib/serveDocument.asp?doc=222790&pgid=76556>

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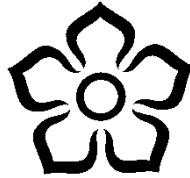


Leicester
City Council

PART 4G – RULES OF PROCEDURE

PART 4G – CONTRACT PROCEDURE RULES

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



Leicester
City Council

PART 4G – CONTRACT PROCEDURE RULES INDEX

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CONTRACT PROCEDURE RULES – PART 4G

Section 1 – Basic Principles

1 What All Staff Need to Know

- 1.1 Procurement is the activity involved in buying supplies, services and works for the City Council. Whilst this is a simple definition, a lot of procurement involves considerable planning, and often there is follow up work involved in managing contracts.
- 1.2 There are two categories of Officers who will be undertaking buying arrangements on behalf of the Council:
 - 1.2.1 Officers who are allowed to buy using arrangements currently in existence.

These arrangements are dealt with in Finance Procedure Rules.
 - 1.2.2 Officers who undertake new arrangements for buying supplies, services and works or running mini-competitions. Contract Procedure Rules deal exclusively with this sort of buying. These Officers are called “**Approved Procuring Officers**”.
- 1.3 Subject to these Rules, an Approved Procuring Officer may be authorised to accept offers from contractors to provide supplies, services and works to or on behalf of the Council.
- 1.4 There is a list of Approved Procuring Officers which will have been created either by Divisional Directors or the Chief Operating Officer. No other Officer is allowed to procure supplies, services and works except for the limited arrangements permitted by Finance Procedure Rules described above.

2 Authorisations for Buying

Subject to the Constitution, any decision by the City Mayor or Executive to reserve any particular matter to themselves, and without prejudice to any procedures for urgent action in the City Mayor and Executive Procedure Rules; the following authorisation schedule shall have effect in respect of the award of contracts:

	Minor Contracts (£0 - £1,000)	Small Contracts (£1,000 - £30,000)	Intermediate Contracts (£30,000 – £70,000)	Large Contracts (£70,000 – EU Limit)	Contracts above EU Thresholds
Planned Procurement*	N/A	N/A	Divisional Director	Divisional Director in consultation with Executive	Divisional Director in consultation with Executive
All other procurement	Approved Procuring Officer	Approved Procuring Officer	Divisional Director	Executive	Executive

* procurement notified in the Procurement Plan or as part of the Dynamic Database

3 Application of these Rules

3.1 These Rules apply to the following types of procurement:

3.1.1 The carrying out of building or engineering works for or on behalf of the Council.

3.1.2 The provision of any Services (including research and consultancy services) to the Council.

3.1.3 The purchase of any supplies or materials to or on behalf of the Council.

3.1.4 Partnering arrangements whereby the Council is the Lead Body and where the partnering arrangement will involve secondary procurement of any of the above.

3.1.5 Development agreements where the works are of direct economic benefit to the Council where the Council has taken measures to define the type of the works or has had a decisive influence on their design.

3.1.6 Works and services Concessions.

3.1.7 Framework agreements.

3.2 These Rules do not apply to:

3.2.1 Contracts of employment making an individual a direct employee of the Council.

3.2.2 Purchase or sales of land and buildings without development specifications, (other than development agreements falling within paragraph 3.1.5 above).

3.2.3 Functional arrangements between the Council and other public bodies.

- 3.2.4 Money market transactions, or
- 3.2.5 Grants given to support the aims and objectives of an organisation (grant – in aid) or as gap funding (project grant) subject to paragraph 3.4 below.
- 3.3 The Rules relating to competition also do not apply to Reserved Contracts as long as all the elements of regulation 7 of the Public Contracts Regulations are complied with.
- 3.4 The exception for grants given to support the aims and objectives of an organisation applies only to genuine grant arrangements. Contracts with voluntary organisations for the supply of supplies, services and works are covered by these Rules. An analysis tool is available at the following link:

Grants and Contracts Analysis Matrix

4 Authorisation of Approved Procuring Officers

- 4.1 The Chief Operating Officer is responsible for designating Approved Procuring Officers and shall maintain a register of such Officers. In doing so, s/he may restrict an Approved Procuring Officer to specified categories of supplies, services or works.
- 4.2 The Chief Operating Officer may authorise any Divisional Director to designate Approved Procuring Officers and if so the relevant Divisional Director shall, be responsible for maintenance of the “associated register” for their service area.
- 4.3 Until determined otherwise by the Chief Operating Officer, Divisional Directors are empowered to approve Procuring Officers for all categories of spending within their service area
- 4.4 The Chief Operating Officer and Divisional Directors shall ensure that:
 - 4.4.1 The register of Approved Procuring Officers and any associated register is kept up-to-date and published by the Head of Strategic Procurement Services (HOSP).
 - 4.4.2 Approved Procuring Officers receive and successfully complete training as required by the HOSP.

5 General Standards of Procurement

- 5.1 Each Divisional Director shall ensure that procedures for procurement in his/her service are robust, provide for sufficient levels of expertise and supervision and provide appropriate segregation of duties to prevent the risk of fraud, corruption or challenge. Each Divisional Director shall ensure that duties are only delegated to staff with appropriate competencies
- 5.2 Approved Procuring Officers must adhere to the following general principles throughout a procurement exercise:
 - 5.2.1 Achieve Value for Money with public money spent.
 - 5.2.2 Be consistent with the highest standards of integrity.
 - 5.2.3 Ensure fairness and transparency in allocating public contracts (and in particular secure observance of Rule 8 of section 4).
 - 5.2.4 Comply with all legal requirements.
 - 5.2.5 Have as their purpose, the achievement of the Council's Priorities.
 - 5.2.6 Ensure that non-commercial considerations as defined by law do not influence any contracting decision.
 - 5.2.7 Take account of whole life costs in contract award decisions, this means considering longer term costs and benefits and quality as well as price.
- 5.3 In respect of any procurement exercise, Approved Procuring Officers must:
 - 5.3.1 Ensure that adequate budgetary provision has been made for the value of the contract.
 - 5.3.2 Express the Council's requirements in terms of outputs, outcomes and (where appropriate) inputs.
 - 5.3.3 Ensure that contract values are correctly estimated and attributed, so that the correct tendering procedure is used and the rules on aggregation as contained in the Public Contracts Regulations are applied.
 - 5.3.4 Ensure that the financial standing and technical ability of any potential supplier is assessed.
 - 5.3.5 Have regard, when framing the type, value, selection and evaluation criteria of the procurement exercise, to the interests of small and medium sized businesses so that they are not inadvertently disadvantaged and so that all candidates, whatever their size, are treated fairly and with equal diligence during the financial appraisal process. The assessment of risk should be based on sound business judgement rather than just the mechanistic application of financial formulae.

- 5.3.6 Ensure that the mandatory grounds for exclusion of contractors (as provided for in regulation 23 Public Contracts Regulations) are observed and the discretionary grounds for exclusion (as provided for in regulations 24 and 25 of the Public Contracts Regulations) are considered and applied if appropriate.
- 5.3.7 Keep bids confidential (subject to law).
- 5.3.8 Not negotiate with Contractors except as specifically permitted by these Rules.
- 5.3.9 Ensure there is a written contract or Order before the Supply, Services or the Works begin.
- 5.3.10 Keep full records of each procurement exercise for the duration of the contract plus a further period of 12 months.
- 5.3.11 Assess each contract post award to see how well it has met the purchasing need and service requirements.

6 Declaration of Interests by Officers

- 6.1 All Approved Procuring Officers shall make a declaration on the register of Interests located on **MyView**.
- 6.2 Any Officer who has any pecuniary interest in a contract or potential contract must declare that interest in writing to his/her Divisional Director as soon as s/he becomes aware of it and record the declaration be in the Register on **MYView**. A failure to comply with this by the Officer may be a criminal offence and a disciplinary matter. The Officer shall take no further part in the procurement.
- 6.3 Any Officer, whether a direct employee of the Council or engaged through an external organisation or supplier who is engaged to work on behalf of the Council shall, if they become aware of any relationship (current or past), whether pecuniary or not, with any supplier or potential supplier, make a Declaration of Interest to the Divisional Director at the earliest opportunity and record the declaration in the Register on **MYView**. The Divisional Director, after consulting with the Monitoring Officer, shall (in writing) acknowledge the declaration and determine whether the Officer can continue to take part in the procurement. Any interest declared shall be recorded on the Register of Interests.
- 6.4 No Officer shall accept any fee or reward whatsoever in the course of or in connection with his or her duty as an Officer or employee other than his or her proper remuneration.
- 6.5 Each Divisional Director shall maintain a record of interests disclosed by Officers within their service area.

Section 2 – Strategic Commissioning Requirements

1 General Principles of Commissioning

1 Commissioning is the means to secure the best use of resources and deliver positive outcomes that meet the needs of citizens, communities and service users in Leicester. Decisions on services and projects commissioned by the Council shall follow the approach set out in

1.1.1 The Commissioning Cycle (Analyse; Plan; Do; Review) (see Figure 1) and



Figure 1 – The Council’s Commissioning Cycle

1.1.2 The Equalities, Neighbourhood Working and Community Cohesion Checklist for Commissioning.

1.1.3 The sustainability checklist for Commissioning.

1.1.4 The Council’s Commissioning framework.

<http://insite.council.leicester.gov.uk/chief-executives-office/strategic-commissioning/commissioning>

1.1.5 And have regard to The Best Value Statutory Guidance where considering funding cuts to local organisations in the voluntary and community sector and small businesses.

1.1.6 The Public Services (Social Value) Act 2012 (when in effect).

1.2 When preparing for procurement each Divisional Director shall ensure that the following outcomes will be evidenced (where a business case is required under these rules this should be also evidenced in the business case)

- Better, more robust analysis which will help shape and inform our service planning and forecasting.
- Reducing the impact of inequalities.

- Services and activities based on real evidence of need.
- Services that deliver the outcomes service users and the wider community both want and need now and in the future.
- Better use of resources and increased efficiency.
- The social, economic and environmental needs of the people of Leicester, and their community.

so that service delivery is underpinned by aligning service priorities and objectives to the Council's Priorities and service improvement is addressed through contractual measures relating to quality and timely management information.

- 1.3 Local enterprise both in the small business community and the voluntary and community sector has a vital role to play in the local economy. Even where an aggregated/significant value contract or framework is let, nonetheless value can be achieved by reinforcing local supply chains, building social equality and promoting social inclusion (where relevant).

Section 3 – Business Case Requirements

1 Commissioning Analysis

1.1 Before proceeding to approach the market (or issuing any invitation to any potential supplier) for any supplies, services and works, the Approved Procuring Officer must, unless one of the exceptions apply comply with the relevant procedure as set out below.

1.2 Exceptions

The exceptions are:

1.2.1 That there is an existing arrangement for the programme of the supply, services or works (as the case may be), that confers exclusivity upon the provider, or

1.2.2 The total value of the contract is less than £1,000, or

1.2.3 Where the Decision Maker (see below) considers strictly necessary by reason of extreme emergency, unforeseen and not attributable to the Council, the relevant procedure cannot be met.

1.3 Procedures

Band	Procedure	Decision Maker	Submission to Strategic Procurement Team Required
£1,000 - £30,000	A	Authorised Officer	Prior notification
£30,000 - £70,000	B	Divisional Director	Yes (summary)
£70,000 – EU limit	B	Chief Operating Officer	Yes (summary)
EU Limit +	C	Chief Operating Officer or Executive	Yes (outline business case)

Procedure A

Notification form to be sent by the Divisional Director to Strategic Procurement Services in the following form before any procedures leading to the award of a contract are commenced,

Procurement Request Form

A statement endorsed on the successful quotation/tender, by the Approved Procuring Officer, that alternative options have been considered and that Value for Money has been demonstrated.

Procedure B

A summary business case to be prepared by the Divisional Director and sent to Strategic Procurement Services. The required form of the summary business case shall be as follows:

External Consultants and Interims

Others

Procedure C

Outline business case including an assessment of the Council's needs, analysis of the current position and review of the suppliers and supply market. Options will be identified and assessed using comparator options and benchmarking as appropriate, the agreed way forward and if appropriate the method of going to the market. This stage does not automatically lead into the supplier selection and award stage, but will do so in the majority of cases. The use of the following template is recommended.

Outline Business Case

1.4 Considerations

In undertaking the procedures under 1.3 above the Approved Procuring Officer shall have regard to:

- 1.4.1 Current arrangements in existence in-house.
- 1.4.2 Flexibilities, such as options to extend, within the scope of existing contracts which offer better Value for Money or which for technical or other practicable reasons are more suitable.
- 1.4.3 LCC specific call off or framework contracts or strategic partnering arrangements (eg BSF) where the proposed procurement is within the scope of such contracts/arrangements.
- 1.4.4 Arrangements recorded through ESPO General and Dealing Direct catalogues.
- 1.4.5 Contractors on an Approved List (where appropriate).
- 1.4.6 Corporately available third party contracts or framework agreements, which are available on the following **link**.
- 1.4.7 **Use of ESPO, other Central Purchasing Bodies and External Frameworks**

The approval of HOSP is required. Contact by e mail on **cpthelpdesk**.

Section 4 – Competition Rules

1 Competition Requirements – structure of the rules

- 1 Rules 7 and 8 (full tendering) apply to all procurement save that the Approved Procuring Officer may apply the relevant competition procedure as set out in the table below (subject to aggregation)

	Minor Contracts (£0 -£1,000)	Small Contracts (£1,000 - £30,000)	Intermediate Contracts (£30,000 – £70,000)	Large Contracts (£70,000 – EU Limit)
Minor Contracts Procedure (rule 3)	✓			
Small Contracts Procedure (rule 4)	✓	✓		
Intermediate Contracts Procedure (rule 5)	✓	✓	✓	
Large Contracts Procedure (rule 6)	✓	✓	✓	✓
Exemption (rule 2)	✓	✓	✓	✓
Waiver (section 10)	✓	✓	✓	✓

2 Exemptions to Competition Requirements

- 2.1 The Approved Procuring Officer will not have to undertake the competition requirements, in the following circumstances:

2.1.1 Sole Supplier: Small Contracts that the Divisional Director certifies can only adequately be provided by a sole supplier.

2.1.2 Technical exemption: when the Divisional Director certifies that, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular economic operator **PROVIDED THAT** (save in the case of particular artistes or bought in productions at De Montfort Hall) in the case of Large Contracts and contracts exceeding the EU Threshold, this has been indicated in the Procurement Plan

- 2.1.3 Urgency: Where the Divisional Director certifies needs as being strictly necessary because of unforeseeable or unforeseen emergency involving immediate risks to persons, property or serious disruption to Council services and where it would be contrary to the Council's interest to seek tenders **PROVIDED THAT** the Monitoring Officer has endorsed this in the case of Large Contracts and contracts exceeding the EU Threshold. The Director's action shall be reported to a subsequent meeting of the Executive. This exemption does not extend to situations which are attributable to the Council's lack of forward planning.
- 2.1.4 The requirements of the contract can be met by means of call off from a compliantly procured Framework which the Council is lawfully able to use. (This will include any public sector arranged framework contracts eg Government Procurement) or can be met through a Teckal Company.
- 2.1.5 Where one of the grounds for use of Negotiated Procedure without publication of a Prior Notice apply **PROVIDED THAT** in the case of Intermediate Contracts there has been prior consultation with the HOSP and in the case of Large Contracts and contracts exceeding the EU threshold, this has been indicated in the Procurement Plan or has been otherwise approved by the Executive.

Exemptions must be recorded on the **Exemption Form**.

3 Minor Contracts Procedure – Supplies, Services and Works – (£0-£1,000) – Minimum Requirements

- 3.1 The Approved Procuring Officer must obtain one oral quotation.
- 3.2 The Approved Procuring Officer must ensure that such quotation, if accepted, is reasonable in all the circumstances and represents Value for Money for the Council.
- 3.3 Whilst there is only a requirement for one oral quotation the Approved Procuring Officer must consider whether a written quotation or additional quotations are in the Council's best interests.
- 3.4 All oral quotations (or other responses) must be recorded contemporaneously, signed and dated by the Approved Procuring Officer.
- 3.5 The Approved Procuring Officer may make the decision on whether or not to award the contract after considering all the quotations and shall keep a written record of their decision which must also record why s/he believes the quotation is reasonable, demonstrates Value for Money and can be accepted.

4 Small Contracts Procedure – (£1,000-£30,000) – Minimum Requirements

- 4.1 The Approved Procuring Officer must obtain four written priced offers at least two (where reasonably practicable) shall be from a local supplier.

- 4.2 The Approved Procuring Officer must ensure that the offer that is accepted is reasonable in all the circumstances and represents Value for Money for the Council in terms of price and quality.
- 4.3 The Approved Procuring Officer must log all details of the offers or other responses for future reference.
- 4.4 The Approved Procuring Officer may make the decision on whether or not to award the contract after considering all offers and shall keep a written record of their decision which must also record why s/he believes the offer is reasonable, represents Value for Money and can be accepted over the other offers received.

5 Intermediate Contracts Procedure – (£30,000-£70,000) – Minimum Requirements

- 5.1 The Approved Procuring Officer must use one of the following procedures:-
 - 5.1.1 A full tendering procedure in accordance with the tendering requirements detailed below for “Large Contracts”
 - 5.1.2 For works, supplies or services using an Approved List sanctioned by the HOSP, the procedure in section 5 below, or
 - 5.1.3 For services, the Dynamic Data Base procedure set out in section 5A below, or
 - 5.1.4 The Divisional Director certifies that he/she has looked into all the individual circumstances of the case and that there is **no interest to economic operators located in other Member States** and that the alternate procedure to be used is adequate in all the circumstances of the case
- 5.2 When undertaking a Restricted Procedure procurement or using an Approved List, the Approved Procuring Officer must ensure that at least five contractors are invited to tender. If there are fewer than five contractors included on the Approved List, all of those shall be invited to tender.
- 5.3 The Approved Procuring Officer must comply with the Contract Award procedures detailed below.
- 5.4 The relevant Divisional Director is accountable for the award decision.

6 Large Contracts Procedure – (£70,000-EU limits) – Minimum Requirements

- 6.1 The Approved Procuring Officer must undertake a full tendering procedure in accordance with the tendering requirements detailed below. The provisions of Section 8 below (Executive Approvals) must be complied with both at readiness to procure and award stage as the case may be.

- 6.2 A public advertisement inviting expressions of interest must be published sufficiently accessible to open the award up to competition within the EU market (to the extent that, in all the circumstances of the case, the contract might potentially be of interest to contractors in other member states) and demonstrate the impartiality of the invitation procedure. The notice shall contain the essential details of the contract to be awarded and of the award method together with an invitation to contact the Council. The information published must be sufficient to enable potential contractors to make a decision as to whether or not to express an interest in the contract.
- 6.3 When using an Approved List, the Approved Procuring Officer must ensure that at least five contractors are invited to tender. If there are fewer than five contractors included on the Approved List, all of those shall be invited to tender.
- 6.4 The Approved Procuring Officer must comply with the Contract Award procedures detailed below and the Public Contracts Regulations as they apply to the particular contract. In the event that the procedures detailed below imply a greater degree of process than the Public Contracts Regulations then these procedures shall apply.
- 6.5 The relevant Divisional Director is accountable for the award decision where authority is delegated under section 8 below (Executive Approvals).

7 All other Contracts including Contracts which exceed the EU Threshold

- 7.1 The Approved Procuring Officer is obliged to undertake a fully compliant EU Procurement exercise and is required to consult with Strategic Procurement Services and Legal Services before commencing the exercise. The provisions of Section 8 (Executive Approvals) below (Executive Approvals) must be complied with both at readiness to procure and award stage as the case may be. The use of the Negotiated Procedure without prior publication of a Notice shall only be used with the written consent of the City Barrister.

In this Rule “fully EU compliant” means compliance with the Public Contracts Regulations.

- 7.2 The Approved Procuring Officer must comply with the tendering requirements detailed below. For Part B (Residual Services) as a matter of local choice, the tendering requirements for Large Contracts may be used instead, provided that this is indicated in the Procurement Plan or otherwise approved by Executive.
- 7.3 The Approved Procuring Officer must comply with the Contract Award requirements detailed below and the Public Contracts Regulations as they apply to the particular contract. In the event that the procedures detailed below imply a greater degree of process than the Public Contracts Regulations then these procedures shall apply
- 7.4 Dynamic Purchasing Systems: This procedure should only be used through Strategic Procurement Services.

7.5 Contract Award is a function of Executive subject to any delegations described in section 8 below (Executive Approvals).

8 The Principles of Transparency and Fairness

All processes leading to the award of a contract shall comply with the following principles of transparency and fairness:

- Non-discriminatory description of the subject matter of the contract.
- Equal access for contractors from all member states of the EU-conditions should not be imposed stipulating where a contractor must be established.
- Mutual recognition of diploma's certificates and other evidence of formal qualifications.
- Appropriate time limits so that potential contractors can make a meaningful assessment and prepare their offer.
- Applicable rules for the tendering process should be available in advance and applied to all bidders in the same way.

9 Format of going to the market

9.1 Competition can be carried out in two ways:

9.1.1 Documents sent out in conventional form either printed or on CD. Returns are in the same form, ideal where the market may not be familiar with on-line applications.

9.1.2 Everything available on-line, often called e-Tendering. The Council subscribes to an e-Tendering solution. This saves time and cost of printing and is ideal for well-developed IT-literate markets.

10 Tendering Requirements for all Contracts Exceeding the Intermediate Contract Threshold

10.1 The Approved Procuring Officer must consult with Risk Management and Insurance Services (RMIS) prior to any procurement process commencing, for advice about insurance values. Should the Approved Procuring Officer wish to proceed with lower levels of cover, the written consent of the Director of Finance must be obtained.

10.2 When a contract is subject to tendering, the tender documents shall include:

10.2.1 A written specification of the Council's requirements. As a minimum this should contain the information required by the Councils' standard output specification.

The Council's standard output specification

- 10.2.2 The basis on which the tender evaluation shall be carried out and the resulting award made including evaluation criteria, sub criteria and the evaluation methodology.
- 10.2.3 A statement that the Council does not bind itself to accept the lowest or any tender.
- 10.2.4 A statement that the Council will be obliged to comply with Freedom of Information Legislation and requirements as to local transparency on contracts and tenders.
- 10.2.5 The closing date and time for receipt of tenders and the name and address to which tenders should be sent or, for electronic tenders, the web address and closing date and time (which shall be during office hours).
- 10.2.6 A requirement that the tenderer should keep the tender open for acceptance for a period of not less than 90 days.
- 10.2.7 For conventional tenders, a requirement that the tender should be submitted in the official envelope supplied or in a plain envelope labelled only by an address label which shall be included with the tender documents. For e-Tendering, a requirement to submit tendering as stated in the tender box.
- 10.2.8 For conventional tenders, a requirement that no mark or wording which might indicate the identity of the sender (within a mark affixed by the Post Office or other carrier) shall appear on the cover of the package containing the tender.
- 10.2.9 A requirement that the tenderers accept full responsibility for ensuring compliance with the terms of this Contract Procedure Rule and that any failure to do so may render that tender liable to disqualification.
- 10.2.10 A note to the effect that the persons authorised to open tenders are the Divisional Director (or nominated representative), the City Barrister (or nominated representative) and the Director of Finance (or nominated representative).
- 10.3 Strategic Procurement Services shall be given the opportunity to comment on the Invitation to Tender before market engagement.
- 10.4 The proposed terms of contract must include the following provisions. Officers should refer to the standard contract documentation which has been approved by Legal Services for use in certain situations and which is available from the **Procurement Toolkit** link.
- 10.4.1 The termination of the contract and the recovery of any sums paid where there has been evidence of bribery or corruption.

10.4.2 Entitling the Council to terminate part or all of the contract or to obtain substituted provision of the supplies, services and works to be supplied under the contract in the event of a breach of contract by or the insolvency of the Contractor.

10.4.3 The price (and/or any mechanism by which the price, any additional price or discounts are to be ascertained).

10.4.4 Prohibiting the Contractor from sub-contracting, assigning or otherwise transferring the contract without the prior written consent of the Council and providing that the Contractor shall remain liable to the Council for any part of the contract that may be sub-contracted.

10.4.5 The compliance by the Contractor with legislative requirements in respect of:

- (a) Health and safety, including the setting up of appropriate systems and procedures for the supplies, services and works procured.
- (b) The prevention of inequality and the promotion of equality.
- (c) The observance of human rights in the performance of functional activity under the contract (as if the contractor were a public body).
- (d) Freedom of information, and requiring the Contractor to co-operate with the Council in dealing with requests, the contractor accepting that information will be liable to disclosure and allowing for requirements as to local transparency on contracts and tenders.
- (e) Data Protection.
- (f) Workforce transfer legislation, where appropriate, including associated codes of practice and
- (g) Any other legal obligation.

10.4.6 Compliance with the Council's sustainability policies.

10.4.7 Indemnities for any claim in respect of employer's liability or public liability arising from the contract, including if appropriate infringement of intellectual property rights, and appropriate insurance requirements of the contractor.

10.4.8 Indemnities in respect of claims made against the Council made in respect of a Contractor's activities and the provision of satisfactory insurance against such claims.

10.4.9 (in cases where the Contractor's activities are of a type that can normally be so insured) The provision to the Council of evidence of satisfactory professional indemnity insurance held by the Contractor.

- 10.4.10 For contracts above the Intermediate limit involving the carrying out of works or the provision of services, the provision of adequate security in respect of completion by the Contractor either by means of retention of sums due or the obligation to pay liquidated damages or substituted performance or (where appropriate) the provision of a Performance Bond or Parent Company Guarantee.
- 10.4.11 The provision to the Council of adequate Intellectual Property protection together with an indemnity protection where appropriate.
- 10.4.12 The provision to the Council of adequate Warranties (or direct covenants) from manufacturers of mechanical and engineering supplies, or for supplies of other products, where the Council's requirements have prescribed or prohibited materials or where a duty of skill and care is appropriate to the manufacture of the product in contracts for the purchase of Supplies.
- 10.4.13 If necessary, provisions to ensure that appropriate vetting and barring is undertaken to ensure the safety of vulnerable groups.
- 10.4.14 The Council's entitlement to undertake monitoring and compliance procedures.
- 10.4.15 The provision to the Council of adequate confidentiality obligations together with appropriate indemnities.
- 10.4.16 Provision to require the contractor to operate whistleblowing procedures.
- 10.4.17 For professional consultancy contracts, a requirement for fair dealing in the case of conflict of interest.
- 10.4.18 (where appropriate) An obligation on the part of the Contractor to maintain continuous improvement throughout the contract term which may result in efficiencies to the Councils' benefit.
- 10.5 Except when using the approved standard contract documentation, in accordance with the stipulations as to its use, Legal Services approval to the proposed terms of contract must be received.
- 10.6 All tenders, except when using the Corporate Approved List, shall, as a minimum, be advertised on or via the Council's website (contact Strategic Procurement Services). Any additional advertising shall be at the Approved Procuring Officer's discretion.
- 10.7 Before tenders for a contract are sought the Divisional Director responsible shall designate an Officer to whom tenders shall be addressed and shall determine the date and time when the tender shall be opened.
- 10.8 The Officer so designated in accordance with Rule 10.7 shall retain and keep safe all tenders until the time appointed for their opening. All tenders shall be opened on the same occasion in the presence of that Officer and the

Monitoring Officer and Director of Finance (or Officers authorised to act on their behalf) (see 10.2.10). A tender opening record shall be prepared and signed off by all those present.

- 10.9 A written record shall be kept of all those persons to whom tender documents were sent, of all tenders submitted, and of whether a person to whom tender documents were sent failed or declined to tender.
- 10.10 No tenderer shall be permitted to alter its tender after it has been received by the Council except to correct any arithmetical error made in the tender. If a tender has been accepted before the correction is made the correction shall only be accepted if the tender remains the most favourable to the Council following the making of the correction.
- 10.11 No tender received after the closing time and date for receipt of tenders shall be accepted and any tender received after that date and time shall be returned to the tenderer with an explanation in writing of the reason for its return.
- 10.12 All advertisements in the Official Journal of the European Union (OJEU) shall be placed by the Strategic Procurement Services (Extn 29 6304) and must be accompanied by a project plan. Where it is intended to place an advertisement for any purchase above the EU threshold, contents of that advertisement must be approved by Strategic Procurement Services in advance of publication (Extn 29 6304).

11 Shortlisting and Selection, Evaluation and Award Criteria

- 11.1 All shortlisting and selection must at all times be in accordance with the published Selection Criteria included in the invitation to selected for tender, which must include adequate information on the mechanisms to be applied to select tenderers.
- 11.2 Selection Criteria, such as potential tenderers capability and experience, and scoring and weighting to be allocated to such criteria (together with details of any “pass mark”) and details of any question where an unsatisfactory answer could lead to exclusion, should be disclosed in the invitation to be selected for tender.

Standard Form of Selection Questionnaire and Notes

- 11.3 Bidders that do not qualify or pass the pre-qualification or other earlier stage, and are not invited to tender must be informed in writing of the rejection of their application and the reasons for it.
- 11.4 Award Criteria must be designed to secure an outcome giving best Value for Money for the Council. The basic criterion shall be either:
 - 11.4.1 “Lowest price” where payment is to be made by the Council, or
 - 11.4.2 “Highest price” if payment is to be received, or

11.4.3 “Most Economically Advantageous Tender” where considerations other than just price apply.

If the “most economically advantageous” criteria is adopted it must be further defined by reference to sub-criteria. Sub-criteria may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost-effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics, safety, after sales services, technical assistance and any other relevant matters. Guidance should be given to tenderers on the scoring methodology and should include detailed description of how scores will be given for each sub-criterion.

The method for ascertaining “highest” or “lowest” price must be defined.

11.5 Award Criteria must not include:

11.5.1 Non Commercial Considerations (Officers are advised to contact Legal Services for current advice on what these would constitute).

11.5.2 Matters which discriminate against suppliers from the European Economic Area.

11.5.3 A general provision allowing for the highest mark to be awarded for tenders which exceed the specification without further explanation as to how specifically such offers will be scored, or

11.5.4 Selection criteria such as contractor’s capability and experience.

Officers are advised to contact Strategic Procurement Services for current best practice in framing selection and award criteria.

Award Criteria, sub criteria, scheme of marking and weightings (if used) shall be fully described in the Invitation to Tender.

11.6 All evaluation and awards must at all times be in accordance with the published award and evaluation criteria included in the invitation to submit a tender.

11.7 Where an existing framework contract is used, a contract may be awarded by applying the terms set out in the framework contract, without re-opening competition, or, where competition is re-opened, on the basis of the award criteria referred to in the contract documents forming the basis of the framework agreement.

11.8 Evaluation of tenders should be carried out by a panel consisting of at least 2 officers of the Council who have the relevant experience and expertise to make value judgements of the tender submissions. It is recommended that for Intermediate and Large contracts the panel consists of:

- A technical expert from the relevant service area or professional discipline.

- Input from Financial Services and Strategic Procurement Service to assess commercial viability and value for money.
 - Input from Legal Services to assess contractual issues and robustness.
- 11.9 If the Approved Procuring Officer considers the Lowest Price Tender, Highest Price Tender or Most Economically Advantageous Tender (as the case may be) to be abnormal given the nature of the contract, the tenderer shall be asked to clarify in writing the reasons for its Tender and the Divisional Director shall take that explanation into account in deciding which Tender s/he will accept or recommend to the Executive (as the case may be).
- 11.10 Where the Divisional Director considers that none of the tenders submitted meets the evaluation matrix or satisfies the Award Criteria s/he may, after seeking advice from the HOSP, authorise negotiations to take place with all of the tenderers who submitted bids to seek to meet the required standard in order that a contract may be awarded. Such action shall be recorded in writing by the Director. The negotiations shall be carried out by at least two Officers authorised for the purpose by the Director and their progress shall be recorded contemporaneously in writing. No significant changes shall be made to the contract issued for tender.

12 Contract Award Requirements

- 12.1 All contracts above the EU threshold are subject to the standstill procedure before contracts can be signed. It is recommended that Intermediate and Large contracts below the threshold (and contracts above the threshold but derived from a framework agreement) are treated similarly as this reduces the scope of any ineffectiveness proceedings
- 12.2 Where an award process has not been subject to advertising then the Approved Procuring Officer may consider the use of a voluntary transparency notice as this potentially reduces the scope of any ineffectiveness proceedings
- 12.3 The Approved Procuring Officer shall notify all tenderers of the result of the tendering exercise and the date on which the standstill period ends.
- The standstill period ends at midnight at the end of 10 days after the date on which the award decision letter was sent by fax or e mail or at midnight at the end of 15 days after the date on which the award decision letter was sent if sent by other means.
- 12.4 The award decision letter to unsuccessful tenderers must include the following:
- 12.4.1 The Award Criteria.
- 12.4.2 The reasons for the decision, including the characteristics and relative advantages of the successful tenderer.

- 12.4.3 The scores obtained by the unsuccessful tenderer and the successful tenderer (a full breakdown of scores against each criteria and sub criteria supported with a brief narrative).
- 12.4.4 The successful tenderer's name.
- 12.4.5 A precise statement of when the standstill period is to end.
- 12.5 All applicants excluded from being invited to tender shall be notified of the rejection of their application, and the reasons for it OR if not sent a notice as in rule 12.4 (save for the relative advantages of the successful tenderer).
- 12.6 No contract shall be awarded, until the end of the standstill period, or if an aggrieved bidder has issued and served Court proceedings,
- 12.7 Before awarding any large contract or contract exceeding EU thresholds, the Approved Procuring Officer shall ensure:
- 12.7.1 That, at the appropriate time, the successful tenderer's financial standing has been assessed and approved by the Director of Finance in the light of the size and nature of the contract to be awarded and due regard being made to any current contractual liabilities that the successful tenderer may have with the Council.
- 12.7.2 That the successful tenderer satisfies or will be able to satisfy any health and safety, environmental, equality and technical capability requirements relating to the contract.
- 12.8 A Divisional Director shall only award the contract (or recommend that the Executive) awards the contract) based upon the Award Criteria previously determined.
- 12.9 All contract awards shall be notified to Strategic Procurement Services.
- 12.10 The Approved Procuring Officer shall arrange for an Award Notice to be placed in the OJEU within 48 days of contract award by the Strategic Procurement Services (Extn 29 6304).

Section 5 – Form of Contract

1 Minor Contracts

- 1.1 Minor contracts (unless a standard form of contract is used –see below) shall be entered into by means of an Order.
- 1.2 Notwithstanding 1.1 above, in respect of ICT Contracts for software applications and associated maintenance, an Approved Procuring Officer may place an order on the Contractor's terms and conditions providing potential liabilities or costs arising if the Contractor fails to properly carry out his obligations are adequately catered for in these terms and conditions.

2 Small Contracts

- 2.1 The correct form of contract is determined to a large extent on the risk that the proposed purchase/provision of service/undertaking of works places upon the Council.
- 2.2 The Approved Procuring Officer must therefore consider the following factors:
 - 2.2.1 The degree of complexity involved including the degree of precision to which the Councils requirements are specified and the degree of certainty over price.
 - 2.2.2 Whether there are any sophisticated project management requirements.
 - 2.2.3 Whether there are any intellectual property issues.
 - 2.2.4 The expected lifespan of the purchase.
 - 2.2.5 Whether there are any workforce matters (including pension provision).
 - 2.2.6 Potential liabilities or costs arising if the contractor fails to properly carry out his obligations under the contract.
 - 2.2.7 Whether there are any additional funder's requirements.
 - 2.2.8 Whether there are any other substantial concerns.
- 2.3 Should the Approved Procuring Officer consider that the Council is not exposed to undue risk then:
 - 2.3.1 S/he may proceed to place an Order on the Council's terms and conditions.
 - 2.3.2 If the proposed purchase relates to ICT Contracts for software applications and associated maintenance, an Approved Procuring Officer may proceed to place an order on the Contractor's terms and conditions PROVIDED THAT potential liabilities or costs arising if the

Contractor fails to properly carry out his obligations are adequately catered for in these terms and conditions.

- 2.4 Should the Approved Procuring Officer consider that the Council is exposed to a degree of risk s/he must use an approved form of contract for the proposed purchase/provision of service or undertaking of works which will contain clauses to address these risks.
- 2.5 The Approved Forms of Contract for minor contracts, small contracts and intermediate contracts are currently:
- 2.5.1 For **supplies**.
- 2.5.2 For ICT Software Applications and Associated Maintenance the Approved Procuring Officer should consult with the Corporate ICT Contract team for the latest terms and conditions.
- 2.5.3 For contracts for the provision of a Service, other than **consultancy**. Please note this is **not** applicable for use in a framework situation.
- 2.5.4 For Contracts for the provision of **Consultancy Services**. Please note this is **not** applicable for use in a framework situation.
- 2.5.5 For **Community Based Services**.
- 2.5.6 For Works Contracts the Approved Procuring Officer should use an industry standard construction contract suitable for this value range such as the JCT Jobbing contract, JCT Minor Works Contract or the NEC Short Form Contract.
- 2.5.7 For Frameworks, the form of contract prescribed in the framework shall apply.
- 2.6 Should the Approved Procuring Officer consider the Council is exposed to risk, and no approved form of contract exists or is suitable, s/he should consult Legal Services.

3 Large Contracts and Contracts Exceeding the EU Limits

- 3.1 The approved form shall be the form of contract included within the Invitation to Tender. The Approved Procuring Officer may use an Approved Form of contract (see above) within the stipulations as to its use but otherwise it shall be in the form approved by the City Barrister. Any amendments can only be made with the approval of the City Barrister.

Section 6 – Formalities

Minor and Small Contracts

Minor and Small contracts in the approved form may be signed by Strategic or Divisional Directors, or their nominated deputy for this purpose, provided the Approved Procuring Officer has complied with these Procedure Rules and that the contract/agreement is on a Council Order Form or is in a standard form which has been endorsed as approved by the City Barrister or other authorised officer for use in such circumstances. The contract must not be signed by the Approved Procuring Officer.

Strategic and Divisional Directors are responsible for keeping a record of all contracts signed by them, or officers nominated by them; and for the safekeeping of these contracts, and any associated waivers, exemptions, warranties and bonds.

In all other cases

In all other cases, contracts must be signed by officers authorised in accordance with Article 14 of the Constitution. A standard instruction to Legal Services is provided for this purpose, a **Delegated Powers Certificate**, and should include details of the reasons for **Exemptions** and records of **Waivers** granted. Financial evaluations should also be included together with advice received by the Approved Procuring Officer on insurance values.

All contracts shall be notified to Strategic Procurement Services.

Section 7 – Approved Lists

1 Approved List of Approved Contractors

- 1.1 For the purposes of this Rule, a “Approved List” is an approved list of contractors selected (in compliance with Section 4 of these rules) to undertake certain areas of Services, Supplies and Works chosen after each contractor has met the standard necessary for inclusion. Current Approved Lists may only be kept and maintained on a database held by Strategic Procurement Services.
- 1.2 No Approved List shall be used for any contract that exceeds the **EU threshold** for the application of the EU Public Procurement Rules. In determining whether the EU Public Procurement Rules apply, the Approved Procuring Officer shall have regard to whether the contract should be considered as aggregated with any other contract in accordance with those Rules. Should Approved Procuring Officers have any queries on such aggregation, they are advised to contact Strategic Procurement Services.

2 Use of the Approved List of Approved Contractors

- 2.1 Suppliers should be invited to tender in accordance with the procedure set out for this purpose as part of the procurement of the Approved List. If this procedure is by rotation then the procedure shall provide that the next five suppliers plus the current supplier shall be invited to tender. The Approved Procuring Officer shall check the trade value of each of these to ensure they are accredited to that value of work. If fewer than six contractors are available, then all shall be invited to tender.

Section 7a – Dynamic Data Base

- 1 The purpose of this procedure in particular is aimed at improving access to procurement opportunities by SMEs.
 - 2 The procedure will be operated and maintained by the HOSP.
 - 3 The procedure shall ensure that:
 - 3.1.1 Opportunities will be advertised on the Council's website – this will comprise the summary of the anticipated contract/s sufficient to enable interested parties to decide whether to express an interest, an indication of whether the invitation is open, or when it will close and whether the procedure is Restricted or Open.
 - 3.1.2 Expressions of interest to be made by completion of the on line form provided
- SHORT FORM EOI**
- 3.1.3 The Approved Procuring Officer shall be entitled to seek clarification or further information about the answers provided in the Short Form EOI by potential suppliers.
 - 3.1.4 The Approved Procuring Officer shall proceed to select a shortlist and invite tenders as for Large Contracts.
 - 3.1.5 Unless unavoidable through project specific circumstances the specification and the terms and conditions of contract should follow one of the standard forms prescribed by these Rules.
- 4 This procedure is not to be used for any contract exceeding the EU threshold for the application of the full tendering procedure in the Public Contracts Regulations.

Section 8 – Executive Approvals

- 1 The Executive is responsible for:
 - 1.1 Approval of the Procurement Strategy. This will include the Council's approach to procurement, procurement management arrangements and approved methodologies.
 - 1.2 Approval of a Procurement Plan – periodically reported list of all forthcoming activity above EU thresholds (and any other activity above any locally determined threshold) and which advises Members, the public and the market of significant expected procurement activities.
 - 1.3 Approval of individual contract awards above EU thresholds. The award of approved contracts has been delegated to Divisional Director in consultation with Executive, provided such procurement exercises were included in the Procurement Plan.
 - 1.4 Approval of individual contract awards for Large Contracts.. The award of approved contracts has been delegated to Divisional Director in consultation with Executive provided such procurement exercises were included in the Procurement Plan.
- 2 The Procurement Plan will be reviewed and updated periodically.
- 3 The Audit and Risk Committee will receive twice yearly reports monitoring:
 - 3.1 Delivery of the Strategy.
 - 3.2 Achievement of the Procurement Plan.
 - 3.3 Performance of the Procurement function.

Section 9 – Post Contract Management

- 1 The contract management arrangements shall be set out in the Invitation to Tender and subsequent contract. These shall ensure timely reporting of performance, quality, customer satisfaction and management information in relation to service priorities and objectives.
- 2 A contract may not be varied without the consent of the City Barrister.
- 3 A named Contract Manager shall be appointed for each contract exceeding the small contract threshold.
- 4 No contract exceeding EU thresholds may be extended by duration or value unless:
 - 4.1 Such extension was included in the original OJEU Notice and contract documentation; **or** such extension is less than the small lots provision (currently 20% of the published contract value); **and**
 - 4.2 Alternative options have been considered by way of an options appraisal; **and**
 - 4.3 The Contract Manager is satisfied that the extension demonstrates value for money and is in the best interests of the Council in the light of the contractor's performance.
- 5 Contracts below the EU threshold may be extended by duration or value if:
 - 5.1 Such extension would not mean that, had it been included in the original contract, the overall value would have exceeded the EU threshold; **and**
 - 5.2 Alternative options have been considered by way of an options appraisal; **and**
 - 5.3 The Contract Manager is satisfied that the extension demonstrates value for money and is in the best interest of the Council in the light of the contractor's performance; **and**
 - 5.4 The combined value of this and other similar contracts regardless of supplier remains below the EU threshold.
- 6 All extensions shall be notified to the Strategic Procurement Services.

Section 10 – Waivers

- 1 No departure from any mandatory requirements of these rules is permitted unless:-
 - 1.1 There is a business case and legal grounds to do so, supported by evidence, and
 - 1.2 The relevant rule/s have been waived.

PROVIDED that, there shall be no departure permitted under these Rules in respect of the mandatory requirements of Section 6 and Section 8.

- 2 Contract Procedure Rules may be waived only:
 - 2.1.1 By the Executive, the Chief Operating Officer or other Chief Officer (following consultation with the Monitoring Officer), or
 - 2.1.2 For Intermediate Contracts, the relevant Divisional Director in consultation with the Monitoring Officer
 - 2.1.2 For Minor and Small Contracts, by the relevant Divisional Director.

And, in all cases, in consultation with Strategic Procurement Services

- 3 All **waiver requests** must be in the format available on the **Procurement Toolkit** site on the Intranet home page and must record the grounds for the waiver. A copy of each completed Waiver must be sent to the HOSP.
- 4 All waivers must be reported to a subsequent Executive meeting (this will be actioned by the HOSP).

Section 11 – Minor and consequential amendments of Contract Procedure Rules

- 1 The Chief Operating Officer, in consultation with the Head of Strategic Procurement Services and the City Barrister may from time to time amend.
 - 1.1 The authorisations for buying set out in the table at paragraph 2 of section 1; and
 - 1.2 The procedure for business case approval at paragraph 1.3 of section 3.

(but not so as to change the scope of the consultation with or authorisations required from the Executive where it is in the economic interests of the Council) and shall cause such changes to be published and this Constitution to be amended to reflect such changes.

- 2 The City Barrister may in consultation with the Chief Operating Officer from time to time amend these Contract Procedure Rules.
 - 2.1 To correct an obvious error.
 - 2.2 To reflect changes in the management structure and responsibilities as set out elsewhere in the Constitution.
 - 2.3 To reflect changes in the law where otherwise these rules would not be constituent with the law.
 - 2.4 To reflect amended EU thresholds
 - 2.5 and shall cause such changes to the published and this Constitution to be amended.

- 3 The Head of Strategic Procurement Services in consultation with the City Barrister and the Chief Operating Officer may from time to time publish procurement rules and/or guidance to amplify and fine tune the steps to be taken by Approved Procuring Officers in assessing the case for a new procurement and then implementing the procurement once it has been approved and to issue or vary the standard forms of prior notification of proposed contract, business case, selection questionnaire and short form expression of interest. Where there is any ambiguity or conflict between these Contract Procedure Rules and or guidance issued under this paragraph, the provisions of Contract Procedure Rules shall take precedence. Publication may be by any means but shall include publication in the Procurement Toolkit.

APPENDIX 1 – GLOSSARY OF TERMS USED

In these Contract Procedure Rules the following terms have the following meanings:

Approved List	A list maintained in accordance with Section 7 of these Rules.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected.
Award Notice	A notice, at the award or conclusion, of procurement procedures, to be sent to OJEU, in the prescribed form and containing the information specified in the Public Contracts Regulations 2006 (as amended).
Best Value	The duty on local authorities to secure continuous improvement in the way in which services are provided, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council.
Bond	Has a similar effect to an insurance policy: if the Contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against a level of cost arising from the Contractor's failure.
City Barrister	Means the City Barrister and Head of Standards
Chief Officer	Any officer designated as a Chief Officer under the Council's Constitution.
Concession	A contract whereby a payment is received from the contractor in return for the rights to provide a service to the public or exploit an asset and the contractor assumes all risk
Contract (including sub-contract)	any agreement for the supply of goods, materials or services, the execution of works and the awarding of Concessions
Contractor	A supplier of goods, materials, works, services or Concessions to the Council
Council's Priorities	The strategic long term vision of the Council as published.

Disposal	The divestment of Council ownership in any asset (except land or buildings).
Dynamic Purchasing System	<p>Means a completely electronic system of limited duration which is:</p> <ul style="list-style-type: none"> (a) Established by a the Council to purchase commonly used goods, work, works or services; and (b) Open throughout its duration for the admission of potential contractors which: <ul style="list-style-type: none"> (i) Satisfy the selection criteria specified by the Council; and (ii) Submit an indicative tender to the Council or person operating the system on its behalf which complies with the specification.
Dynamic Database	The procedures provided for in Section 7a of these Rules.
EU Threshold	The Public Contracts Regulations do not apply to the seeking of offers in relation to a proposed public contract, framework agreement or dynamic purchasing system where the estimated value of the contract, framework agreement or dynamic purchasing system (net of value added tax) at the relevant time is less than the relevant threshold. The current thresholds are set out in the Schedule of Approvals.
Executive	As the Council operates City Mayor and Executive arrangements for all of the Council's Executive functions, the word "Executive" refers to the provision for the discharge of the relevant function of these Rules made by the City Mayor to himself, the Deputy Mayor and "Assistant" City Mayor or a meeting of the Executive or a sub-committee of the Executive or otherwise as he may specifically provide under Article 5 of the Core Constitution.
Framework	Means an agreement or other arrangement which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the contractor will enter into one or more contracts with the Council in the period during which the framework agreement applies.

HOSP	The Head of Strategic Procurement Services.
Invitation to Tender (ITT)	A formal document inviting potential contractors to submit a tender for the contract.
Lead Body	A joint arrangement, consortium or statutory partnership under which the Council is to enter Contracts for and for the benefit of other bodies.
Most Economically Advantageous Tender	Is the best Tender based on a combination of price and quality.
Negotiated Procedure with publication of a Prior Notice	A procedure for inviting tenders, involving the publication of a notice inviting requests to be selected to negotiate, but where the procedure is more flexible than the Open or Restricted Procedures, and where it is allowable to negotiate with bidders to identify the best tender. This procedure can only be used in limited circumstances.
Negotiated Procedure without publication of a Prior Notice	A procedure for inviting tenders, without advertising an invitation to be selected to negotiate, where the procedure is more flexible than the Open or Restricted Procedures, and where it is allowable to negotiate with bidders to identify the best tender. This procedure can only be used in limited circumstances.
Non Commercial Considerations	Are those that the Council may not have regard to, by virtue of s 19 of the Local Government Act 1988.
OJEU	The Official Journal of the European Union.
Open Procedure	A procedure leading to the award of a contract whereby all interested potential Contractors may tender for the contract.
Order	An official order as defined under Finance Procedure Rules containing terms and conditions.
Part B (Residual Services)	Those services listed in Part B of Schedule 3 of the Public Contracts Regulations. These are cases where only the rules on technical specifications, the provision of reports and the purchase or hire of goods by public service bodies, are applied by law.
Priced Offer	The terms, including price, on which a Contractor would be prepared to enter into a contract with the Council for specified supplies, services or works

Procurement Plan	Means the periodic list referred to in Section 8 of these Rules.
Procurement Toolkit	The document entitled Procurement Toolkit produced and maintained by Corporate Procurement section of the Insite.
Quotation	A written statement of price of goods or services to be supplied.
Restricted Procedure	Means a procedure leading to the award of a contract whereby only potential contractors selected by the Council may submit tenders for the contract.
Public Contracts Regulations	Means the Public Contracts Regulations 2006 (as amended).
Reserved contracts	Are those which the Council may reserve the right to participate to certain businesses, factories or programmes which provide work for disabled persons under Regulation 7A of the Public Contracts Regulations.
Selection Criteria	The criteria by which a potential contractor is to be selected to be invited to tender.
Teckal Company	A company set up by the Council and other public bodies as the equivalent of an “in house” service and where the tests in the case of <i>Teckal s.r.l v the Commune of Viano C-107/98</i> are met.
Tender	Any offer which is capable of resulting in a contract if accepted.
Value for Money	Achieving the same outputs for less resource or additional outputs for the same resource – optimal use of resources to achieve the intended outcome.
Warranty	A legal document or provision that promises that certain facts are true eg something will work properly or that an item is of good quality or that certain materials have not been used in its manufacture, or that a certain quality standard has been applied. This is enforceable as if it were a contract.

APPENDIX 2 – SCHEDULE OF APPROVALS

Authorisations for Buying

	Minor Contracts (£0 - 1,000)	Small Contracts (£1,000 - £30,000)	Intermediate Contracts (£30,000 - 70,000)	Large Contracts (£70,000 - EU Limit)	Contracts above EU Thresholds
Planned Procurement*	N/A	N/A	Divisional Director	Divisional Director in consultation with Executive Lead	Divisional Director in consultation with Executive Lead
All other procurement	Approved Procuring Officer	Approved Procuring Officer	Divisional Director	Executive	Executive

* Procurement particularised in the Procurement Plan or as part of the Dynamic Database

Commissioning Analysis

Band	Procedure	Decision Maker	Submission to Strategic Procurement Team Required
£1,000 - £30,000	A	Authorised Officer	Yes – prior notification
£30,000 - £70,000	B	Divisional Director	Summary
£70,000 – EU limit	C	Chief Operating Officer	Summary
EU Limit +	D	Chief Operating Officer or Executive	Outline business case

Competition Requirements Part B Services and Below EU Threshold

	Minor Contracts (£0 - £1,000)	Small Contracts (£1,000 - £30,000)	Intermediate Contracts (£30,000 – 70,000)	Large Contracts (£70,000 – EU Limit)
Minor Contracts Procedure	✓			
Small Contracts Procedure	✓	✓		
Intermediate Contracts Procedure	✓	✓	✓	
Large Contracts Procedure	✓	✓	✓	✓
Exemption	✓	✓	✓	✓
Waiver	✓	✓	✓	✓

Current EU Thresholds (net of VAT)

Goods:	£173,394
Services:	£173,394
Works:	£4,348,350

Current EU Small Lot Limits

Goods:	£69,574
Services:	£69,574
Works:	£869,670

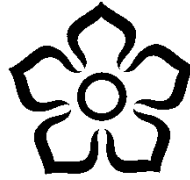
PART 4H –
LAND & PROPERTY
TRANSACTION RULES

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

Section 4 Land Transactions

1 Application

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



Leicester
City Council

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

Contents

<u>1</u>	<u>Dealing with Formal Tenders and Informal Offers in Land Transactions</u>	<u>3</u>
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SCHEDULE 1

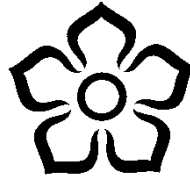
1 Dealing with Formal Tenders and Informal Offers in Land Transactions

- 1.1 When the deadline is set for receipt of Tenders, arrange meeting with the relevant Finance Officer to be held within 1 hour of that time (eg deadline Tuesday 2.30pm – meeting arranged for Tuesday 3.00pm). Legal Services (the Practice Manager) must be given notice of the receipt of Tenders, this notice to be either at least 6 weeks or before the first advertisement appears in the press, whichever is the earlier. Legal Services will arrange for a private area to be available in which to open the Tenders (confirm the availability with Legal Services a few days prior to the opening time).
- 1.2 Address labels supplied to interested parties must state the delivery address as Practice Manager, Legal Services, Leicester City Council, 'A' Block New Walk Centre, Welford Place, Leicester LE1 6ZG, preferably with a contact name.
- 1.3 Documentation supplied to the Tenderer must state the following Tender requirements:
 - 1.3.1 The closing date and time for the receipt of Tenders.
 - 1.3.2 That the Tender envelope/package submitted is only to be labelled using the official address label supplied with the Tender documents.
 - 1.3.3 That the Tender envelope/package must bear no indication of the identification of the Tenderer. Consequently, the Tenderer must ensure that, for example, if the Tender envelope/package is returned by recorded delivery or courier, that the name and address of the sender is not stated on the recorded delivery/courier's label, usually attached to the envelope/ package.
 - 1.3.4 That delivery must be to the location on the official address label ie Legal Services. If the Tender envelope/package is delivered by hand, the person delivering it must obtain an official receipt from Legal Services.
 - 1.3.5 Any late Tenders and Tenders delivered to the wrong location, even if it is another City Council office, may be deemed void and may be opened (to identify the sender) and returned to the sender with an explanation in writing of the reason for its rejection. Notwithstanding this Rule, when dealing with a Late and/or Unsolicited Offers in connection with Property Disposals Officers should have regard to the Protocol entitled "A Protocol for Responding to Late and/or Unsolicited Offers in Connection with Property Disposals", attached at Schedule 3 to these Rules.
 - 1.3.6 That it is the Tenderer's responsibility to deliver the Tender to the location on the official address label before the closing date and time and the City Council does not accept any liability for non delivery, late delivery or delivery to the wrong location, by any company or other

organisation or person charged by the Tenderer for its delivery (also make reference to the office hours when Tenders can be delivered prior to the closing date).

- 1.3.7 That the tendered bid must not be calculable by reference to another bid, document or formula and must be exclusive of VAT.
- 1.3.8 That the Council does not bind itself to accept the highest or any Tender.
- 1.3.9 That Tenderers must accept full responsibility for ensuring compliance with the above requirements and that failure to do so may render the Tender liable for disqualification.
- 1.3.10 Although not required under the Council's Constitution, Tenderers are likely to find it helpful if the Tender documentation indicated when it was anticipated that the successful Tenderer would be notified (remember to take into account the Member challenge period following a Cabinet decision, and the consequent delay if a challenge is received).
- 1.4 All Tenders must be delivered to Legal Services directly. On receipt of each Tender, details are to be entered into a fixed leaf register and a reference number from the register is to be written on the envelope. The register is to be kept and administered by Legal Services.
- 1.5 Under no circumstances must other staff accept Tenders on behalf of the Council. Anyone trying to hand one in elsewhere must be redirected to Legal Services.
- 1.6 All Tenders delivered by hand must be entered into the register and the person delivering the Tender must be given an official receipt by Legal Services with the date, time and receipt number being written on the Tender envelope/package. Any spoilt receipt(s) must be logged in the register as spoilt and the spoilt receipt(s) placed with the Tenders in the safe.
- 1.7 When Tenders are received in the Post Room they will be logged (as current practice) and hand delivered on their next round (at about 2.00pm, as they are usually second post). On the day of the deadline, the Property Officer is to contact the Post Room after the second post has been delivered (at about 11.00am) and check if any Tenders have arrived. If they have, the Property Officer must immediately pick them up and take them to Legal Services to be entered into the register and stored with the others.
- 1.8 All the Tenders are to be stored in the strong room in Legal Services until opening time.
- 1.9 Before opening the Tenders, reference numbers on the envelopes are to be checked against the register to ensure none are missing or misplaced within the safe. The register is to be signed and dated as correct, below the last entry for that Tender, by the Finance Officer and Property Officer when all Tenders have been accounted for.

- 1.10 The Standard form is to be used when opening Tenders to record relevant information for cross-referencing and signed by both Officers at the end of opening and recording.
- 1.11 After opening, all documentation is to be retained by the Property Officer and kept in a secure file, including envelopes, the standard opening form, any spoilt receipts and a copy of the relevant page in the register, to provide a complete audit trail.
- 1.12 Receipt books will be issued by the Practice Manager, Legal Services, who shall be responsible for their safe custody and accountable for all receipts therein.

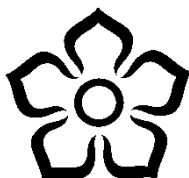


Leicester
City Council

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

Contents

1	Introduction.....
2	Methodology to Determine whether Disposal is Appropriate
3	The Council's Legal Requirements.....
4	Existing Policy – The General Assumption re Property Disposals.....
5	The Framework and Proposed Policy.....
6	The Terms of these “Exceptional Disposals”
7	Revocation of Previous Policies
Appendix 1	Financial Policy to be Adopted for Development Alliances
Appendix 2	Policy for Transfer of Assets for Community Governance



Leicester
City Council

SCHEDULE 2

THE FRAMEWORK FOR THE DISPOSAL OF PROPERTY

1 INTRODUCTION

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

2 METHODOLOGY TO DETERMINE WHETHER DISPOSAL IS APPROPRIATE

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

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

3 THE COUNCIL'S LEGAL REQUIREMENTS

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

3.2 It is Section 123 of the Local Government Act 1972 that requires local authorities to dispose of land for the best price reasonably obtainable, unless either consent is obtained from the Secretary of State to the disposal or the disposal is a short-term one, (less than 7 years). Price can either be a sum of money or something that has a commercial or monetary value that is capable of being assessed. Further, local authorities must be able to evidence that best consideration has been obtained. In some cases, particularly development land, this requires a marketing exercise to be undertaken. Established good practice and a previous public interest report produced by the District Auditor's Office indicates that third party valuations are not adequate evidence of best consideration. The Council therefore needs to ensure an open competitive marketing of property takes place in all but a few circumstances.

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

3.3.1 The promotion or improvement of economic well-being.

3.3.2 The promotion or improvement of social well-being.

3.3.3 The promotion or improvement of environmental well-being.

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

4 EXISTING POLICY – THE GENERAL ASSUMPTION RE PROPERTY DISPOSALS

- 4.1 The general assumption is that the City Council's property is marketed on the open market in accordance with the established good practice procedures to obtain best consideration and therefore not requiring the Secretary of State's consent (or use of the General Consents).
- 4.2 In addition, however, a few specific exemptions have been agreed to address particular circumstance, such as the disposal of land to facilitate the building of the National Space Science Centre.
- 4.3 In recognition of this, and in order to seek to address the changing priorities and pressures, it has been decide to review the policy and seek approval to the inclusion of some specific exceptions, rather than dealing with cases on a one off basis.

5 THE FRAMEWORK AND PROPOSED POLICY

5.1 The General Assumption re Property Disposals

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

5.2 Exceptions to Open Marketing

A number of exceptions have been identified where requests to purchase property from the City Council, negotiated on a 'one-to-one' basis and to the exclusion of other potential purchasers, would be appropriate. Disposals on this basis are likely to require the consent of the Secretary of State (unless either covered by the General Disposal Consent or where there is adequate comparable evidence to support the valuation of the property). These exceptions are as follows:

5.2.1 Regeneration.

5.2.2 Service Delivery.

5.2.3 Major Projects of Regional or National Significance.

5.2.4 Special Purchasers.

5.2.5 De minimus.

5.2.6 Delivery of Council priorities.

Considering each in turn:

5.2.1 Regeneration

The disposal to any person or body where the terms of the disposal are to facilitate regeneration within the area of Prospect Leicestershire Ltd where the City Council and the Prospect Leicestershire are in agreement that, for reasons of either site assembly, preferred developer status, or preferred scheme, it is necessary to treat with that person or body to the exclusion of others, but nonetheless on reasonably commercial terms. Such a disposal may involve a Development Alliance, or involve a disposal of property to enable the relocation of displaced occupiers from sites.

A Development Alliance is an agreement for the disposal of land for the purposes of development or redevelopment where any consideration is, in whole or in part, deferred and is calculable in whole or in part by reference to the profit or value of the development or redevelopment to be undertaken. The financial policy set out in the appendix shall apply to these Development Alliances.

Relocation property would only be made available exclusively to a displaced occupier where it was agreed between the City Council and Prospect Leicestershire that it was appropriate in the circumstances.

5.2.2 Service Delivery

A disposal to a person or body where the terms of the disposal are to facilitate the exercise of the Council's functions, subject to the Council's Community Plan and Budget and Policy Framework and where there are:

- (a) Significant returns or benefits to the Council commensurate with the level of service or function that would otherwise have been provided by the Council or
- (b) Where the services are of a high priority but the Council is not delivering the service direct.

However, in both cases, where there is a market for similar service provision this category shall not apply.

5.2.3 Major Projects of Regional or National Significance

Disposals to a Charity, Community Association or similar where the terms of the disposal require the use of the land for a major project of regional or national importance and where major social, economic or environmental benefits and levered in funding are anticipated to the local community or Leicester as a whole. Also disposals to other organisations that have broad based community support and which generate significant economic benefits to the City.

In such cases in order to maintain transparency, appropriate criteria are required to provide an "audit trail" of the decision as to why one

interested party was selected without undertaking a marketing exercise. It is suggested that the following are considered:

- (a) Other Potential Purchasers
 - (i) Likelihood of alternative uses.
 - (ii) Likelihood of alternative bodies able to deliver the project outputs.
- (b) Location
 - (i) The proposal complements existing regeneration priorities.
 - (ii) The site is situated within a ward ranking in the 10% of the most deprived wards nationally.
 - (iii) The geographic location of the property is effectively limited by the nature of the constitution of the purchasing organisation.
- (c) Strategy
 - (i) The proposed use and outputs relate to a key action(s) within the Leicester Neighbourhood Renewal Strategy and is a Priority within the Community Plan.
 - (ii) Is community-based and “not for profit”.
 - (iii) The disposal is on a leasehold basis only.
- (d) Funding
 - (i) The prospective lessee has secured sufficient external funding to enable acquisition of the property at open the market value. (An Agreement to Lease is likely to be required by the prospective lessee to enable a period of time for funding to be applied for and secured [together with securing any other consents] and also to evidence to funders the availability of the property to the applicants).
 - (ii) An appropriately approved Business Plan and Project Appraisal are in place.

5.2.4 Special Purchaser

It is recognised that consent may not be required in the case of special purchasers where the valuation advice is that the method of disposal, even if that is to deal with a particular party without seeking to ascertain what others may be willing to pay (ie on a one to one basis), will secure, and does secure, the best consideration reasonably obtainable. These circumstances will be limited; examples are ransom strips and ‘the tenants bid’.

5.2.5 De minimus

Disposals to a person or body for the purposes of, and on the terms that, they become responsible for keeping the land and buildings erected, or to be erected, eg garages or garden sheds, in good condition and repair where any marketing exercise would merely involve abortive expense and where the land has a capital value of less than £1,500, or where it would be to the mutual advantage of the Council and an adjoining owner to make minor adjustments in boundaries by undertaking an exchange of lands.

5.2.6 Delivery of Council Priorities

Disposal to a partner for a purpose which helps the Council deliver its priorities.

6 The Terms of these “Exceptional Disposals”

Freehold or Leasehold

- 6.1 Whether the disposal is on a freehold or leasehold basis will depend on the particular circumstances in each case. Freehold disposals maximise the capital receipt but result in a loss of future control of the property (restrictive covenants could be imposed but enforcement can be problematic).
- 6.2 Leasehold disposals allow greater control and are appropriate where disposals are seeking particular outputs (eg service delivery) on an annual basis.

Best Consideration

- 6.3 The general assumption with regard to these ‘Exceptional Disposals’ is that the property will be disposed of at ‘the best consideration reasonably obtainable’. The exceptions to this assumption will be either:
- 6.3.1 The Council has agreed to a disposal at less than best consideration,
- OR
- 6.3.2 The consideration payable under the disposal cannot be evidenced as best consideration (see 3.2 above).
- (Note: Development Alliances will always require ‘best consideration’, (see Appendix).
- 6.4 In both these exceptions the disposal will be subject to the consent of the Secretary of State (unless covered by the General Disposal Consent (England) 2003) and also having regard to the City Council’s general fiduciary duty (see 3.1 above).
- 6.5 In those cases where ‘best consideration’ is not required then, before arriving at this decision, it is suggested that the following factors are considered:

- 6.5.1 The ability of the purchaser/lessee to pay the full value.
 - 6.5.2 The value of non-monetary benefits.
 - 6.5.3 The value any other conditions imposed by the City Council.
 - 6.5.4 The planning position.
 - 6.5.5 The Council's general fiduciary duty.
 - 6.5.6 The possibility of the disposal setting a precedent.
 - 6.5.7 Additional wider community benefit that would not otherwise be realised.
 - 6.5.8 Whether the disposal will lever in external funding.
 - 6.5.9 Whether the disposal contributes to the achievement of the promotion or improvement of economic, social or environmental well-being.
- 6.6 In those cases where the consideration cannot be evidenced then, in order to seek the Secretary of States consent, it will be necessary to identify at least a modest undervalue in order to obtain the consent and protect the City Council from challenge. The circumstances must nonetheless justify such action and the sort of factors mentioned in 6.7 are again relevant. An independent valuation will be obtained in these instances to support the application to the Secretary of State or the use of the General Disposal Consent.

7 Revocation of Previous Policies

- 7.1 This 'Framework for Disposals' revokes all previous policies relating to disposal of property directly to individuals, companies, organisations and any other bodies without undertaking a full marketing exercise. Those decisions taken prior to the introduction of this policy will not be affected (unless the need to review any decision arises from a change in circumstances eg default by the previously identified prospective purchaser).

APPENDIX 1

FINANCIAL POLICY TO BE ADOPTED FOR DEVELOPMENT ALLIANCES

- 1 The following principles shall always apply:
 - (a) Obtaining value for money in all transactions.
 - (b) That all functions are discharged economically, effectively and efficiently. All valuations shall be fair and current and to relevant and appropriate professional standards.
- 2 Processes shall be transparent and consistent and all financial dealings and commitments shall be subject to proper bookkeeping and capable of disclosing an adequate audit trail.
- 3 Land disposals shall be compliant with Section 123 of the Local Government Act 1972 (or any equivalent provision) and also provide a reasonable return to the Council. There shall be sufficient evidence to ensure and demonstrate compliance with this principle.
- 4 Due consideration shall be given to the VAT position and the efficiency of opting to tax to ensure the best return from the project, subject always to the protection of the Council's VAT shelter.
- 5 Arrangements and transactions shall be above board and provision shall be set out in particular to deal with situations of actual or apparent conflict of interest and the prevention of the making of improper inducements.
- 6 Any special purpose vehicle shall avoid being subject to regulation, regulated, controlled or influenced under Part V of the Local Government & Housing Act 1989 (or any equivalent provision).
- 7
- 8 Proper provision shall be made to cover insurance and risk management.
- 9 Provision shall be made for the proper treatment of income and expenditure in relation to project property during the project.
- 10 Any financial plan shall be of a robust standard, in particular having regard to proper practices of audit and account and prudent forecasting.
- 11 There should be no commitment to the resources of the Council above that which has been specifically agreed by the Council.

APPENDIX 2

POLICY FOR TRANSFER OF ASSETS FOR COMMUNITY GOVERNANCE

1. Background
 - 1.1 The Local Government White Paper 'Strong and Prosperous Communities' published in Autumn 2006, sets out a new relationship between local government and its communities based on devolution of power by giving residents greater say over local services.
 - 1.2 One element touched upon was that of the transfer of property assets to the community based upon the view that there are realisable benefits to be obtained from giving the community a greater stake in their area.
 - 1.3 On the back of this Barry Quirk, Chief Executive of Lewisham Council, has led a review team into the issues around asset transfer and the report was published in May 2007.
 - 1.4 In essence the report is clear that what is required is not legislation but guidance, helping in the understanding and use of existing powers, being clear on risks associated and learning to manage them effectively. The clear lead from government is that local management and ownership of assets makes for strong communities. The objective is for community empowerment.
 - 1.5 The main specific element is for asset management planning to have a strong community focus and Councils will be expected to fully consider the benefits of asset transfer within the asset management planning process. Further guidance on this will be forthcoming later in 2007.
 - 1.6 Quirk perceives that Councils either do not fully understand the existing powers available to them or are unwilling to use them due to apparent risks involved, problems of being fair to all parties and financial constraints. The clear intention is that Councils be encouraged to face these issues as the underlying principle is that asset transfer to the community can work and the report includes many examples to try and prove this point.
 - 1.7 Two options open to communities who wish to have assets transferred to them, and which are highlighted in the report, are the 'Community call for action' and 'Public Request to Order Disposal' (PROD). The former would allow groups to progress desires for asset transfer to Scrutiny Committee for review and the latter is an existing mechanism by which the public may ask the Secretary of State to direct authorities to dispose of property assets which are either not being used, or not being efficiently used for the performance of their functions. Both these options will empower local communities to approach Councils to purchase, lease or manage property assets.
 - 1.8 In the light of the report the Council must be fully prepared to deal with applications from the local community for the transfer of assets and therefore need a clear policy framework against which such applications should be judged.

1.9 Beyond the principles within Quirk there is very little clarity or detail in terms of defining communities, suitable community groups etc partly due to the range of public authorities that the report covers.

1.10 The report does make it clear though that it expects transfer of assets not liabilities. In view of the lack of detail it is necessary for Councils to make their own judgements based on the needs of their own circumstances and it is recommended that the Council seek to introduce an approved policy in relation to asset transfer including a set of criteria against which applications can be considered.

2. Existing Disposals Policy

2.1 The Council's policy towards the disposal of property is found within the 'Framework for Disposal of Property' which was approved by Cabinet in October 2003. This identifies that, as a general principle, sales of Council property will be carried out through open marketing to ensure equality of opportunity for all to purchase, transparency by the Council in its disposal of assets and compliance with current legislation. Incoming receipts then feed the Capital Programme which is a reflection of Members' priorities for investment.

2.2 The Framework does identify five different cases in which one to one sales to a particular purchaser at market value can be considered (de minimus sales, sales to special purchasers, support of regeneration, to support schemes of regional or national importance and to parties who can provide Council services). Sales under these criteria would normally require Cabinet approval.

2.3 Within the Framework it is outlined that under the General Disposal Consent 2003 Councils do have the power to sell at less than best consideration in cases where well being benefits would arise. Sales where the consideration is £2 million or more less than best, however, require Secretary of State's consent. Councils are still required to meet their general fiduciary duty.

2.4 Due to the difficulties of precedent and the issue of hidden subsidies in property transactions, the Council have only used this consent sparingly.

2.5 It is felt that requests for community asset transfer will not fit comfortably into the existing Framework and therefore the following criteria are to be adopted to enable all such requests to be judged on a similar basis. It is not felt that the Disposals Framework needs amending as such but the criteria be added as an appendix.

3. Criteria to be adopted as policy towards requests for Community Asset Transfer

3.1 Requests for the transfer of Council owned assets will be considered where the following criteria are met:

3.2 The applicant

3.2.1 The applicant is a community led organisation.

3.3 The asset

3.3.1 The asset is in the freehold ownership of the Council.

3.3.2 The Council is comfortable that service delivery can be best provided through asset transfer and will deliver the strategic priorities of the sponsoring department.

3.3.3 The asset has been identified as available for community transfer in the Council's Asset Management Plan (AMP).

3.4 Proposed use

3.4.1 The proposed use will demonstrably help in the delivery of the Council's community strategy, Corporate Plan and will build an active community.

3.4.2 The proposed use will ensure extensive and inclusive reach into the community.

3.4.3 The proposed use will maintain a wide variety of use in line with community needs and, in the case of competing proposals, will best meet identified community needs.

3.5 Business plan and finance

3.5.1 The applicant has provided a viable business plan for their use of the asset including clear proposals, with identified funding, for the management and maintenance of the asset.

3.5.2 The applicant has clearly identified any sources of funding which asset transfer will release.

3.5.3 The applicant has clearly identified any revenue or capital funding implications for the Council, and in the case of revenue the proposed length of time of the commitment and proposals for how the applicant will seek to end the Council's commitment through funding from elsewhere. The Council will assist in the identification of funding sources where appropriate.

3.5.4 The applicant has clearly identified how it will invest in and maintain the asset, including a specific plan as to how all Health and Safety responsibilities will be met.

3.5.5 The applicant has clearly identified the planned outcomes and benefits to result from the asset transfer and accepts that they may be expected to enter into agreements that link continued community governance with achievement of such outcomes and benefits.

3.5.6 The applicant has demonstrated a community governance structure with capability to sustain asset transfer and has identified necessary capacity building requirements within their organisation and has identified the role they see for the Council in this.

3.6 Proposed Terms for Disposal

3.6.1 For the applicant to complete the business planning elements above it will be necessary for the applicant and Council to negotiate terms for the disposal of the asset. These will deal with tenure (freehold, leasehold or licence), consideration, user clause and covenants, responsibility for repairs and insurance and arrangements should the proposal fail and the property is to return to the Council. The terms will define the financial liabilities of the applicant from occupation of the property. In addition to guarantee continued provision of services a service level agreement is likely to be required to be entered into, linked directly to the lease such that failure to provide the services leads to lease termination.

3.6.2 In view of the range of assets within the Council ownership it is unlikely that there will be any disposal methodology which suits all circumstances. However, as a general principle, the policy will be that disposals will not be on a freehold basis, with leases or licences preferred, and it would be expected that the security of tenure to the applicant will be subject to improvement over time in accordance with the success of the project and the growing strength of the applicant in terms of community governance capability. Freehold disposal is generally not supported in particular due to issues arising should community governance fail. In a leasehold situation the Council would be in a better position to reclaim the property on behalf of the citizens of Leicester than should the freehold have been sold. Also leasehold allows for a continued partnership with the community. It is expected that best consideration will be achieved by the Council in all disposals.

4. Consideration by the Council

4.1 Should an applicant meet all the criteria outlined in 3.2 – 3.5 above, then the application will be considered by the Council.

4.2 Such consideration will include:-

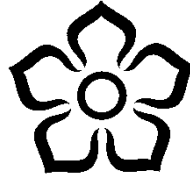
4.2.1 A whole life options appraisal of the different alternative options available to the Council weighing community benefit against other criteria.

4.2.2 A risk analysis of the proposal.

4.2.3 Consideration as to whether any revenue or capital funding requested from the Council will be made available, and whether any capacity building help can be provided.

4.2.4 The acceptability of the proposed terms for the transfer of the asset.

4.3 Should the application be judged favourably following such consideration a report will be taken to the Council Cabinet for decision on the proposal.



Leicester
City Council

Schedule 3: A Protocol for Responding to Late and/or Unsolicited Offers in Connection with Property Disposals

Contents

1	Introduction.....
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SCHEDULE 3

A PROTOCOL FOR RESPONDING TO LATE AND/OR UNSOLICITED OFFERS IN CONNECTION WITH PROPERTY DISPOSALS

1 INTRODUCTION

The receipt of late and/or unsolicited offers cannot be avoided when property disposals are being undertaken. Further, local authorities' property dealings are conducted within a fairly inflexible legal framework and must have regard to the Council's general fiduciary duty to act reasonably and in the interests of the tax payers and consistent with the effective, economic and efficient discharge of the authorities' functions. It is therefore necessary to have in place a protocol to guide the response to the unsolicited offer together with precautionary measures to reduce the likelihood of late offers arising. This guidance covers the most likely scenarios but exceptional circumstances may arise which may require separate consideration. The Council's Constitution refers to tendering procedure but this relates to Tenders for the supply of works, services and goods rather than land. Nevertheless, the relevant principles are followed within this Protocol.

APPLICATION OF THE PROTOCOL

This protocol applies to unsolicited offers received during a property disposal exercise and the response to the offer will be dependent upon:

- 1 At which stage in the disposal process the offer is received.
- 2 The basis upon which the property has been marketed.

3 THE PROTOCOL

- 3.1 In relation to disposals by way of formal or informal Tender ie when offers are required before a fixed date and time (the Closing Date).
- 3.2 Late Tenders ie received after the Closing Date, or Tenders delivered prior to the Closing Date but to the wrong location and subsequently received late.
- 3.3 Offers received outside the Tender process (ie without the official Tender label) after the Closing Date but before consideration by Cabinet (or the Chief Operating Officer exercising delegated authority).
 - 3.3.1 All offers must be considered.
 - 3.3.2 If the late offer is higher and obviously not spurious or otherwise considered unsustainable, the parties that have already submitted offers be invited to make "full and final" offers by a specified date. In considering the sustainability of the late offer regard will be had as to whether the offer is compliant with the requirements of the Tender process (other than meeting the time limit).

3.3.3 In the event that the unsolicited/late offer remains the highest offer then this offer, together with the highest compliant offer from the second round of bids from the Tenderers (ie received from one of the parties who submitted Tenders before the Closing Date) effectively the second highest bid, should be reported to Cabinet (disposals at less than best consideration are reserved to Cabinet). In the event that Cabinet wishes to accept the second highest bid then the Secretary of State's consent for a disposal at less than best consideration will be required (see below).

In deciding whether or not to accept the second highest bid, the Council must act reasonably and have due regard to:

- (a) Its general fiduciary duty (as referred to above).
- (b) Usual and prudent commercial practices.
- (c) Best practice.
- (d) Case law.

In the event that the second highest bid is accepted, reasons to support the decision must be recorded.

3.4 Offers received after the Cabinet decision (or exercise of the Chief Operating Officer's delegated authority) but before the exchange of contracts or before entering into conditional contract or lock out agreement

- (a) As 1.2 above.

3.5 Offers received after the exchange of contracts or entering into conditional contract or lock out agreement

- (a) Write to advise the party making the offer that the property has been sold or that conditional contract or lock out agreement entered into, thanking them for their interest (and offering similar property if currently available for disposal). Record this interest in the event that the contract is not completed and the property is remarketed.

4 Disposals by private treaty (ie following a marketing exercise without a Closing Date or a "one-to-one" disposal when no marketing has taken place).

4.1 Offers received during the period of the negotiation with the prospective purchaser/lessee.

- 4.1.1 If the negotiation arises from a marketing exercise without a Closing Date then each party should be invited to submit their full and final offers within a specified time period.

- 4.1.2 If the offer arises during an off-market “one-to-one” disposal (eg where agreement of Cabinet has been obtained to dispose of the property to secure a particular use or facility from one particular party) then the offer is rejected (but can be used as useful evidence in the negotiations). In these instances the Director of Legal Services must advise on the need to obtain the Secretary of State’s consent to a disposal at less than best consideration (see below).
- 4.2 Offers received before provisionally agreed terms are considered by Cabinet (or the Chief Operating Officer exercising delegated authority).
- (a) As 1.2 above.
- 4.3 Offers received after the Cabinet decision (or the Chief Operating Officer exercising delegated authority) but before the exchange of contracts or entering into conditional contract or lock out agreement.
- (a) As 1.2 above.
- 4.4 Offers received after the exchange of contracts, entering into conditional contract or lock out agreement.
- (a) As 1.4 above.
- 5 Disposals by Auction
- 5.1 Offers received prior to the auction.
- (a) Refer the offer to the appointed auctioneers and agree whether or not to accept the offer. If the offer is recommended for acceptance then the acceptance must be subject to the purchaser exchanging contracts quickly (in accordance with the auction conditions of sale) before the date of the auction, ideally giving sufficient time to notify other parties who may have expressed an interest in the property of its withdrawal from the auction.
- (b) Offers received after the auction.
- If the property was sold under the hammer:
- (i) As 1.4 above.
- If the property failed to sell:
- (ii) As 3.1(a) above but within an appropriate short time period (ensuring the appropriate authority is in place for the auctioneer to accept such offers on behalf of the City Council).

PRECAUTIONARY MEASURES TO BE ADOPTED TO SUPPORT THIS PROTOCOL

In order to minimise the likelihood of unsolicited offers being received then the following good practice should be adopted when undertaking the marketing exercise:

- 1 Late offers must never be encouraged or in any way solicited.
- 2 Where the offer arises from a bidder who has already submitted a compliant bid within a tendering exercise, then consideration of the revised higher bid would only be undertaken provided there was clear justification for the second offer being made.
- 3 The market must be fully explored at an early stage in the marketing process so that every effort is made to identify all potentially interested parties.
- 4 Ensure that time periods between receipt of offers and an executive decision to accept and between acceptance and exchange of contracts (or entering into conditional contracts or lock out agreements) are kept to a minimum. The use of conditional contracts should be considered, with a strict time period by which it must be entered into by successful party, and when each element of conditionality has to be met.
- 5 Offers reported to Cabinet are considered on the private agenda.
- 6 The Cabinet public Minute contains no reference to the disposal price or the purchaser.
- 7 In those cases where reports refer to values of property, for example anticipated capital receipts, only totals are referred to, unless the transaction has been completed.
- 8 Ensuring that prospective purchasers are aware that their costs incurred prior to the exchange of contracts are at their own risk. (However, in the event that the City Council decides not to proceed, there may be a case for reimbursing the purchasers abortive costs. Each case would be considered on its merits).

CONSENT OF THE SECRETARY OF STATE TO DISPOSE AT “LESS THAN BEST CONSIDERATION”

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

- 1 The promotion or improvement of economic well-being.

- 2 The promotion or improvement of social well-being.
- 3 The promotion or improvement of environmental well-being.

In each case it is a condition that the undervalue must not exceed £2 million. Further, the authority must remain aware of the need to fulfil its fiduciary duty in a way that is accountable to local people (this consent does not apply to land held under powers derived from certain Planning and Housing Acts (which is subject to its own consent regime, most recently revised in March 2005) nor does it enable the disposal of public open space without undertaking the advertising procedure set out in s.123 (2A) the Local Government Act 1972).

PART 4I – OFFICER EMPLOYMENT PROCEDURE RULES

This section includes changes approved by Council on .

1. RECRUITMENT AND APPOINTMENT

(a) Declarations

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- ii) No candidate so related to the City Mayor, a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of the City Mayor or any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) Neither the City Mayor nor any councillor will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND DIRECTORS

Where the Council proposes to appoint a director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - i) the duties of the officer concerned; and
 - ii) any qualifications or qualities to be sought in the person to the appointed
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. APPOINTMENT OF HEAD OF PAID SERVICE

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-

committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well founded objection has been made by any member of the Cabinet.

4. APPOINTMENT OF STRATEGIC DIRECTORS AND DIVISIONAL DIRECTORS

- (a) A committee or sub-committee of the Council will appoint Strategic Directors and Divisional Directors. That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as a Strategic Director or a Divisional Director shall only be made where no wellfounded objection from the City Mayor or any other member of the Cabinet has been received.

5. OTHER APPOINTMENTS

- (a) Appointment of officers below Divisional Director is the responsibility of the Head of Paid Service or his/ her nominee, and may not be made by Councillors.

6. DISCIPLINARY ACTION

- (a) Suspension. The Head of Paid Service, Monitoring Officer and Director of Finance may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) Independent person. No disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) The City Mayor or Councillors will not be involved in the disciplinary action against any officer below Divisional Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where the Council's disciplinary, capability and related procedures allow a right of appeal to members.

7. DISMISSAL

The City Mayor or Councillors will not be involved in the dismissal of any officer below Divisional Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissal.

PART 5 – CODES AND PROTOCOLS

POLITICAL CONVENTIONS

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

PART 5 - POLITICAL CONVENTIONS

CONVENTIONS FOR CITY MAYOR / COUNCILLORS / OFFICER RELATIONSHIPS

Note: Where the term 'Member' is used it will apply to Councillors and the City Mayor

The Council is democratically accountable and those elected to it may have political affiliations. Officers must serve the whole Council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective, the City Mayor, Councillors and Officers must have mutual trust and respect for each other's requirements and duties. There must also be transparency and consistency in everyday working relationships. These conventions seek to help ensure this.

The Council has a Code of Conduct under the Localism Act 2011 (attached) which sets out the minimum standards Members and co-opted members must observe in the interests of fair treatment and good governance. These Conventions operate within that framework. A failure to adhere to these Conventions may entail a breach of one or more of the principles that underpin the Code of Conduct for members (or indeed the separate Code of Conduct for Officers) but will not necessarily do so in every instance.

The Code and these Conventions cover Members whenever they are "*acting on the business of the Authority*". Further details are given in the Council's Code of Conduct. However, "acting on the business of the Authority" does not preclude a Member from engaging in legitimate scrutiny or challenge to the Council's policies or decision-making in individual cases. Further details are contained in the relevant sections which follow.

Officers of the Council must serve the whole Council objectively and will not seek to give an improper advantage to a Member. Neither will officers seek to exploit their unique access to Members to secure for themselves any improper advantage or bypassing of normal processes/procedures.

Officer advice and support recognises that the City Mayor / Councillors may legitimately act from political perspectives. A party group is entitled to the confidentiality of Officer advice on developing policies. The overall arrangements for Officer advice must be transparent.

The Conventions also seek to reflect the 7 principles of conduct in public life as defined by the Committee on Standards in Public Life (<http://www.public-standards.gov.uk/17-january-2013/>). These have been defined as:

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their

	work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The document aims to help officers and Members identify clear principles and assist in their application on a daily basis. Therefore Part A defines the principles around key themes with Part B giving more information to help guide their practical application.

It is hoped that this document will prove helpful but where problems arise:

Members - should raise unresolved problems with the relevant Divisional Director. If necessary the Group Whip (if applicable) or Monitoring Officer should be consulted.

Officers - should raise any unresolved problem with their Divisional Director who will advise or take the matter up with the City Mayor / Councillor as relevant. If necessary, the Monitoring Officer should be consulted. The Monitoring Officer may involve the relevant Group Whip (if applicable).

Political Conventions – Part A

This Part seeks to identify principles with further information to support their application given in Part B where necessary.

The document is therefore divided on the same basis as Part B with section numbers relating to sections in Part B.

NEUTRALITY

1. All Officer appointment and employment decisions must be made on merit alone.
2. Officers serve the whole Council and all officers must be politically neutral at work. Officers should not only be neutral they should appear neutral.
3. Members should respect an Officers' right to private political opinions.
4. The posts of certain senior officers will in law be classed as 'politically restricted'. Those officers will adhere to the restrictions set out in law.
5. Where Members are given policy support it must (i) conform to the "*unified advice*" principle (see explanation in Part B), (ii) be for Council and (iii) not be for party political purposes. Work which could be open to misinterpretation must be transparent and justified where necessary, particularly at sensitive times (such as a pending election).
6. Where close personal relationships arise or exist between Members and Officers these should be declared to the relevant Group Whip (where applicable) and to the Relevant Divisional Director / Monitoring Officer and entered in the voluntary register of interests.
7. The Relevant Divisional Director / Group Whip should consider how to manage or avoid contact to dispel any perceived bias.
8. Mutual Courtesy and due respect between Members and Officers is expected by the Council.
9. Unless operating within the scheme of delegation an individual Member cannot take a "decision" or instruct an Officer to take action.
10. A Members right of access to Council premises and to bring in guests is based on the "*need to know*" (that is, to perform the Member's role).
11. Officers will not seek to give an improper advantage to a Member or seek to exploit their unique access to Members to secure for themselves any improper advantage or bypassing of normal processes/procedures.

BRIEFINGS

- 12 All Members have a right to request information reasonably required to perform his or her role (the “*need to know*”). Officers should assume the Member has a need to know unless a restriction applies.
- 13 Where a Member requests information they should declare any relevant interests they have which are affected by the topic of the proposed Briefing
- 14 Members must respect the confidentiality of information identified as confidential and use only for the purpose it is given.
- 15 Briefings to Party Groups / ‘non-grouped’ Members may be given as part of preparation for the decision making process.
- 16 Non-grouped Members will receive details of any briefings given to Party Groups.

MEMBER INVOLVEMENT IN CASEWORK ISSUES

- 17 A Member’s entitlement to be involved in issues around casework is based on the “*need to know*” and determined in accordance with these Conventions. The “*need to know*” is not confined to activities designed to “support” policies or decisions, and can legitimately extend to “scrutiny” and/or “challenge”.
- 18 Where lobbied on an issue (especially planning policy) Members should carefully consider whether to express any view at all but if they do choose to comment to explain that any views expressed are personal and they cannot commit or anticipate the Council’s decision. In this context “lobbying” involves more than merely receiving representations/requests to pursue a given outcome, and envisages that the Member has engaged with the lobbyist and formed a commitment to pursuing the desired outcome. Where a Member, who is in the position of being a decision-maker, has been lobbied they should make, a declaration of interest and/or a declaration of bias and decide whether to participate as a decision-maker at all. In other cases (i.e. where the Member is not a decision-maker) a declaration of interests may not be necessary.

Caution should be exercised in all cases where a Member is lobbied to change (as opposed to ‘challenge’ or ‘test’) officer decision-making. Officers apply policies of the Council, and Members may find themselves in positions of conflict with Council policy if they set-out to unduly influence officer decision-making. Proper channels exist to engage with officers about decision-making, and these should be pursued.

- 19 A Member should not act as an individual’s ‘*friend*’, but may act as a ‘*representative*’ for a constituent

THE EXECUTIVE

- 20** All decisions made will be subject to the relevant statutory provisions and rules defined in the Constitution and these Conventions.
- 21** Executive Members, individually or collectively, may determine the timetable for developing their policies subject to requirements for formal reporting, proper scrutiny and meaningful officer advice.
- 22** Withdrawing or deferring an Executive report is an Executive decision and responsibility.

SCRUTINY

In this section the term Committee will also apply to Scrutiny Commissions

- 23** The Scrutiny and the Executive functions acknowledge their different roles and the need for actions to concentrate constructively on bringing benefit to the citizens and stakeholders of the City.
- 24** All finalised scrutiny reports will be formally responded to by the Executive.
- 25** Recommendations to officers and the Executive must be agreed by the Committee.
- 26** There is an expectation that the relevant Executive Member and Relevant Divisional Director will attend the Committee meeting as an invitee with a view to explaining matters relevant to the agenda.
- 27** The procedures of Committee will be defined by the Scrutiny procedure Rules. The operation of the support to scrutiny will be informed by the Scrutiny Operating Protocols which have been confirmed by the Overview Select Committee.
- 28** It is for a full Scrutiny Committee to determine a purposeful work programme for scrutinising the implementation of decisions. Appropriate consultation with relevant parties should be undertaken in doing so.
- 29** Where the Executive and a Scrutiny Committee are considering the same service area, the City Mayor or Assistant City Mayor, Scrutiny Chairs and Vice-Chairs and Relevant Divisional Director should agree an appropriate approach to handling this in a way which is constructive and manageable within the resources and the time line available. This might include undertaking a joint programme of work, and the order in which reports should be consulted upon and presented.

- 30** Any press releases will be issued in accordance with the Conventions covering 'Media Relations and Published Material' set out in this document.

REGULATORY, COUNCIL, AND COUNCIL COMMITTEES (PLANNING DEVELOPMENT CONTROL, LICENSING, EMPLOYEES, AUDIT & RISK AND STANDARDS)

- 31** Development control, licensing (regulatory) and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements.
- 32** The appearance of decisions being based on party political considerations must be avoided. If Officer recommendations are not accepted, care should be taken to ensure that valid reasons are given and that any departures can be justified and that they are consistent over time.
- 33** Only Members who have received appropriate training may participate in decisions relating to regulatory decisions and Employees' Committee Appeal Hearings.

MEDIA RELATIONS AND PUBLISHED MATERIAL

- 34** Statements and published material on behalf of the Council (including the Council's website) must not be party political and must comply with the statutory 'Code of Recommended Practice on Local Authority Publicity' issued by Government.
- 35** Where a press release addresses a matter of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
- 36** News releases on behalf of the Council may only be issued through the Communications and Digital Media Team.

ELECTION PERIODS

- 37** From the notice of a Parliamentary or local election until election day: Nothing should be published (including the Council's website) on a politically controversial issue, or which identifies views or policies with those of individual Members or party Groups; Any publicity should be strictly objective, concentrating on facts or explanations.
- 38** During such election periods the Town Hall and New Walk Centre shall not be used for political meetings (other than normal private meetings on Council business). This prohibition shall extend to the Town Hall Square Concourse.

Political Conventions – Part B

This part provides supporting information where necessary to the principles defined in Part A to help their practical application.

The document is therefore divided on the same basis as Part A with the section numbers corresponding to the numbered principles.

NEUTRALITY

- 1** Members have a formal role in certain employment appeals as defined in Council policy.

In terms of appointments the law defines that Members can only be involved in the appointment of certain posts. The City Council has defined that these should be for: Directors and other officers who are directly accountable to a Strategic Director / Head of Paid Service for all or most of their duties (excluding officers whose duties are solely secretarial / clerical / support).

A Member may provide a reference in relation to staffing matters within the Council.

In any officer employment process party political factors cannot be taken into account.

Officers involved in employment decisions must uphold employment procedures and Employee Codes of Conduct and not be influenced by Members other than for posts where Members have a legitimate role in those decisions. Failure to do so could be a disciplinary matter.

- 2** If any questions about neutrality or improper conduct by an officer arise these should be raised in private with the relevant Divisional Director, or the Monitoring Officer.

Public accusation (direct or indirect) of improper conduct is potentially defamatory and such questions should not be raised in public meetings. Advice should be taken before meetings. If an issue arises in a meeting, an adjournment may be appropriate to consider how to deal with it. Challenging a deliberate decision not to declare an interest should not be done in a meeting

Officers must be prepared to correct an inadvertent failure to declare an interest, or to justify a decision not to declare an apparent interest. Prior employment is not automatically a declarable interest, but it may be in certain cases.

- 3** Members' knowledge of an officers private political opinions should not be used against an officer who remains neutral at work and observes the

relevant Codes.

- 4** The Council's Human Resources Team will keep a register of those officer posts classed as politically restricted.

Politically restricted Officers cannot be Members or MPs. They cannot *"speak or publish written work to the public at large or a section of the public, with the apparent intention of affecting public support for a political party"*. They can speak or publish *"to such an extent as is necessary for the proper performance of their duties"*.

- 5** 'Unified Advice' is advice which is objective, consistent and points out all relevant factors. Different points of view between officers should be resolved or presented in a balanced way which helps Members to choose between them.

- 6
&
7** The test of whether to declare such a relationship is whether a member of the public might reasonably consider the relationship likely to influence the Member or Officer in their respective roles.

The Member concerned should judge when a personal relationship has formed or whether a family relationship or friendship might reasonably be considered as having influence (depending on domestic arrangements and other circumstances). It should be noted that an Other Disclosable Interest (ODI) might arise in such circumstances.

Where a member of a political group, the Group should consider how working contact between the Member and Officer should be avoided or managed to dispel perceived bias, taking advice from the Monitoring Officer if necessary.

The Officer concerned should judge when to make a declaration. The Relevant Divisional Director should consider how to avoid or manage working contact to dispel perceived bias, taking advice from the Monitoring Officer if necessary. Officers should declare any interests to their manager and where appropriate record using 'MyView'.

- 8** This Convention is not intended to restrict constructive discussion or criticism and the Member's duty to challenge but instead to acknowledge that on many occasions the officer will not be able to respond on equal terms, such as in Council meetings. However bullying by a Member could potentially expose the Council to a claim of constructive dismissal.

Where an officer has concerns that actions may have breached this principle these should be raised with the Monitoring Officer.

Officers should avoid unwarranted criticism of Members and should respect their rights under these Conventions.

- 9** The City Mayor's Scheme of Delegation is available at:

- 10** A Member's right of access is subject to:
- Operational continuity;
 - Confidentiality;
 - Compliance with Health & Safety arrangements;
 - Compliance with physical and information security requirements.
- 11** Staff may raise issues with Members as citizens. They must not lobby Members on personal employment or budgetary matters. Directors should ensure their staff are aware of these requirements and the proper channels for their views to be put forward.

Members should avoid involvement in staff lobbying outside formal procedures and avoid involvement in individual staffing matters. Members should not allow themselves to be lobbied by staff in relation to personal employment or budgetary matters.

BRIEFINGS

- 12**
- 14 A Member's right of access is restricted where:
- The information is primarily needed for a non-Council purpose; or
 - There is a conflict of interest; or
 - Where a report is exempt or confidential by law
 - There is an over-riding individual right of confidentiality (for example, in a children's safeguarding or employment matter); or
 - The resources needed to supply the information would be unreasonable.

Executive Members, individually and collectively are entitled to regular confidential briefing on matters relevant to their portfolios and in support of the policies they are developing prior to them formulating formal proposals. The relevant Executive Member or the Executive collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When formal proposals are made supporting Officer advice becomes publishable in conjunction with the proposals.

Other specific roles where members will have a special need to know arising from that role include:

- Chair and Vice-Chair: matters relating to their terms of reference and committee business;
- Scrutiny Committee or Commission members: matters directly relating to a review currently in process
- Ward Member: matters with special implications for the Ward (ie significantly more than the general implications for the City).

A Scrutiny Chair or Vice-Chair is not normally entitled to information in that capacity without it being known to and available to the other.

An Officer should seek clearance from his or her manager before embarking on a significant amount of work to provide information. The officer should be clear about the capacity in which the Member is being briefed and the implications of any interest. In cases of doubt, the Monitoring Officer may be consulted. The Officer should always make it clear if a briefing is not based on unified advice, (ie is still subject to consultation with other Officers). Otherwise the Member is entitled to assume unified advice is being given. Officers should note that any briefings may be disclosable.

Partial or restricted briefings may be given to Members where necessary in the interests of data protection or other considerations.

If officers refuse a request the Member should approach the Relevant Divisional Director and If still dissatisfied the Monitoring Officer may be asked to determine entitlement.

It should also be noted that any unauthorised release of confidential information may damage the Council's reputation or entail a breach of the law.

15 For all formal briefings to groups and non-grouped Members the following conditions must be applied:

- The Chief Operating Officer knows of and approves the briefing;
- All Groups are informed and offered the same briefing;
- More than one Officer attends;
- Officers withdraw after briefing and any questions, and before political discussion;
- Officers do not write reports for Groups, leaving it for City Mayor / Councillors to present draft Committee reports or briefing notes.

16 Where a briefing is provided to a Group, 'non-grouped' Members will be offered a written summary, and where appropriate a verbal briefing may be offered. If offered a written summary the non-grouped Member may request that they receive a verbal briefing instead and if necessary refer the request to the Monitoring Officer.

MEMBER INVOLVEMENT IN CASEWORK

17 A Members role in relation to casework is:

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- To be briefed or consulted where there is a need to know;
- To pursue the interests of individuals by seeking information, testing action taken and asking for the appropriateness of decisions to be

reconsidered.

- The Member should avoid becoming unduly involved in individual cases and operational detail, except within clear procedures.

Involvement in legal proceedings and audit investigations carries special dangers of prejudicing the case, and of personal embarrassment. The District Auditor has warned of the dangers of individual Members intervening in the processes of the Council without full knowledge of the facts. Access to files may need to be denied or restricted if one of the restrictions detailed above applies. Any access then allowed may need to be “*managed access*”.

Officers should take the lead in pointing out where the boundaries lie in particular areas, recognising that:

- Members legitimately adopt different approaches to case resolution
- The special local knowledge of particular Members may be useful to a particular case.

Officers should point out to the Member when a restriction on the ‘need to know’ may apply, explore entitlement with the Member and, in cases of doubt, consult the Monitoring Officer.

Directors should ensure that their staff know how to obtain appropriate senior management support (particularly out of hours) when the extent of a Members involvement in an issue needs to be clarified.

Officers should not seek to involve Members in operational detail.

- 19** A Member pursuing a Ward matter on behalf of a close family member or friend should declare the relationship and consider whether to ask another Member to pursue the matter.

THE EXECUTIVE

- 20** Each report to the Executive should be in the name of the City Mayor or a Relevant Divisional Director and be the subject of appropriate officer advice.

Reports to the Executive should ensure that:

- It is made clear what stage in the process has been reached and what is required from the Executive;
- There is a clear recommendation or options presented in a way which enable the Executive to choose between them;
- It is clear who is responsible for action and to what timetable (including further reports);
- All relevant factors are included and the issues are presented with professional objectivity;

- Associated briefings and presentations are also professionally objective

The Monitoring Officer will ensure that all decisions meet criteria laid down in the Constitution or legislation.

Meaningful officer engagement particularly on equalities and financial and legal implications, on which consultees should be named is required. Officers must take account of relevant policies of the Council. Any risks and the reasons for taking must be made clear in the report.

Reports must follow the prescribed template and follow advice given by the relevant Divisional Director and clarify the options considered and the reasons for a recommendation / decision.

- 21** In determining the timetable for developing their policies the Executive or relevant Executive Member will consider:
- The point at which confidential ideas become formal proposals for publication;
 - Whom to consult and to what deadline;
 - The timing of Executive reports.

The relevant Director must ensure that all essential decisions are requested by necessary deadlines.

- 22** A Director will be consulted and may advise on deferring or withdrawing a report. Officers will also provide appropriate professional advice on the issue of the timing of Executive reports / proposals.

SCRUTINY

In considering actions account will be taken of the Scrutiny Operating Protocols confirmed by Overview Select Committee on 27/09/12.

In this section the term Committee will also apply to Scrutiny Commissions.

- 23** It is acknowledged that scrutiny may legitimately include both commenting on Executive reports and undertaking formal reviews and producing reports.

Scrutiny should be a constructive process involving appropriate consultation and engagement with relevant stakeholders and avoiding actions that risk prejudging outcomes, or which risk impacting on services prior to any formal recommendations being made.

There should be constructive engagement between the Scrutiny Committee Chair and relevant lead Director(s) during the scoping of any scrutiny review. Officers will seek to facilitate appropriate engagement and dialogue between Scrutiny and the Executive, and other relevant

stakeholders.

Officers should also be asked to ensure the factual accuracy of any scoping document or draft report before they are formally issued by a scrutiny committee/commission.

- 24** A scrutiny review report will be considered to be finalised once it has been endorsed by the Overview Select Committee for submission to the Executive. Such endorsement will only be withheld in exceptional circumstances.

In exceptional circumstances, including urgency, the Committee Chair may agree to the review report being sent direct to the Executive and the decision reported to the next meeting of the Overview Select Committee with the review report placed on the agenda for endorsement

Finalised Scrutiny review reports will be submitted to the relevant Executive Member and the City Mayor (and any relevant key stakeholders) as soon as practicable after the meeting of the Overview Select Committee where the report was agreed, together with a letter requesting a formal written response to the findings and recommendations of the review within a maximum of 2 months of the date of the letter

It is accepted that where the Executive's response requires input from outside bodies or stakeholders, then the 2 month deadline may not be practical. In such circumstances the relevant Assistant Mayor will keep the Overview Select Committee and relevant Commission Chairs informed of the progress being made and the response will be delivered as soon as possible.

Written responses received from the Executive / stakeholder(s) will be reported to the Overview Select Committee. Details of responses will be used as part of performance data to illustrate the effectiveness of scrutiny to City residents and stakeholders.

A Scrutiny Committee may ask for more time, information or other views before responding to Executive consultation. A scrutiny request for more time to consider an Executive consultation shall be subject to the City Mayor or Assistant City Mayor agreeing to additional time and consultation (these being matters for the Executive); and the relevant Director agrees that further information can be provided at reasonable cost and use of Officer time and does not place the Council at significant risk for example of legal challenge.

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26** By attendance at formal Scrutiny meetings the appropriate Executive Member will be fully aware of the progress of a review and will seek to facilitate full officer support for the process. A Member who has been consulted on an officer decision is accountable to the Scrutiny Committee for the views expressed.

The Chair of the Scrutiny Committee / Commission should ensure that questions are properly directed to the City Mayor or relevant Deputy or Assistant City Mayor (for example, justifying policy) or Relevant Divisional Director (for example, progress with implementation), inviting both to attend where necessary.

27 Each Scrutiny Committee/ Commission has a Lead Officer responsible for coordinating its overall programme and individual agendas in consultation with:

- The Chair and Vice-chair;
- Relevant Executive Members (in relation to Executive policies in development);
- Relevant Divisional Directors.

The Chair is expected to conduct Scrutiny Committee / Commission meetings so as to ensure:

- The basis of any participation by non-Members of the Committee / Commission is made clear at the outset (for example, question and supplementary, statement, or participation in debate);
- The questioning of Executive Members, Officers and others is properly structured, and conducted in a courteous, seemly and constructive manner.

The involvement of the Executive Member should reflect their status as an invitee and does not restrict the right of the Committee to invite officers to give evidence.

The Chair and Vice-chair should be jointly briefed on questions from the public. After the Chair has responded, the Vice-chair may add comments.

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29** Where it appears that conflict between Executive and Scrutiny priorities may arise the Relevant Divisional Director will refer the matter to the City Mayor or Assistant City Mayor and relevant Scrutiny Chair and Vice-Chair for consideration.

The work programme of a Scrutiny Committee is devised collaboratively between the Chair, Vice Chair and the relevant lead Director. If the Committee insists on work or evidence that the Director feels is not appropriate / cannot not be prioritised the Monitoring Officer should be consulted on how to resolve the impasse.

The Director will keep the Executive Member informed as appropriate

30 The Communications and Digital Media Team will be guided in Scrutiny matters by the Scrutiny Chair, acting in consultation with the Vice-chair (account will also be taken of the Scrutiny protocol in relation to press releases).

See 36 below for more detail.

REGULATORY AND COUNCIL COMMITTEES (PLANNING DEVELOPMENT CONTROL, LICENSING, EMPLOYEES, AUDIT & RISK AND STANDARDS)

- 31** The processes defined in the 'Planning Code Of Good Practice For Member Involvement In Development Control Decisions 2012' must be followed by Members and the Planning and Development Control Committee.
- 32** In order to ensure clarity of what is a Member's role at the meeting where a regulatory committee is held in public committee members should clearly introduce themselves to the public.
- Particular care should be taken to declare interests in formal meetings, at site visits and in formal discussion and, if necessary avoid participation. Potential interests should be raised with Officers before meetings. Any Executive Member would have an interest in a planning application by the Council.
- 33** Any untrained Member asked to participate in a decision should request training, which will be fast-tracked if necessary and where practical to do so.

MEDIA RELATIONS AND PUBLISHED MATERIAL

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35** Members, through the Executive, are the Council's principal spokespersons on policy. As individuals, they may make party political comment, but the Council may not publish such comment. Officers may publish factual, professional and technical comment. Reports, presentations and publications must be professionally objective in language, content and tone. Relevant Divisional Directors must ensure that Officers who publish statements and material are competent for the role and understand the requirements of these Conventions.
- 36** The Communications and Digital Media Team is responsible for promoting and protecting the Council's overall interests in relation to the media. The relevant divisional Director is responsible for informing Members as relevant when a media statement is proposed. In order to ensure consistency and compliance with the Code of Recommended Practice on Local Authority Publicity, official statements to the media should only be made after consultation with the Communications and Digital Media Team.

The team will be guided in Executive matters by the City Mayor or Deputy or Assistant City Mayor as relevant.

In relation to media activity for scrutiny matters including press releases, these will normally be arranged by the relevant Scrutiny Chairs in consultation with Vice Chairs acting through the Council's Communications and Digital Media Team. It is suggested that these may seek to:

- introduce the review and invite public comment;
- announce the agreement by Overview Select Committee of the finalised report;
- give details of formal Executive or key stakeholder comments.

Where possible, an opportunity will be given for the Executive Member and any relevant key stakeholder(s), as appropriate, to include a comment within any communications or press release.

ELECTION PERIODS

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- In Parliamentary elections, nothing should be published which mentions or includes a picture of any prospective candidate;
- During local elections, no Council newspaper, corporate or departmental should be published;
- Members and Officers should take particular care to keep Officers distant from party political matters.
- Members requesting information should make their “*need to know*” (as explained in provisions 9-11 in Parts A & B) clear and the “*need to know*” principle should be strictly observed.
- Prospective Parliamentary candidates (including current MPs) should be treated equally.
- Officers should avoid even the appearance of political bias.

Appropriate guidance will be given in relation to elections not covered within the list above.

Subject to this Convention, publicity is permitted of Members speaking on behalf of the Council about an approved policy.

External comments should be on strictly factual or professional matters. Care should be taken to avoid being misquoted or inadvertently associated with a particular candidate or political perspective.

Where the Council ought to be represented as stakeholder at an event with a potentially political dimension, officers should:

- Ensure that all contributions to any discussion are factual and based on approved Council policy.

- Avoid expressing opinions or views which may be perceived as containing a party political dimension.
- Avoid engaging in any media activity relating to the event (that is avoid TV or radio interviews, comment to the media, inclusion in photographs or TV filming).

38 Town Hall Square other than Town Hall Square Concourse may (subject to prior booking) be used for political meetings.

APPENDIX 1

NOLAN PRINCIPLES

Principle 1 - Selflessness

Holders of public office should act solely in terms of the public interest.

Principle 2 - Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Principle 3 - Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Principle 4 - Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Principle 5 - Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Principle 6 - Honesty

Holders of public office should be truthful.

Principle 7 - Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Principle 8 - Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Principle 9 - Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

CODE OF CONDUCT

LEICESTER CITY COUNCIL

CODE OF CONDUCT FOR MEMBERS

1. Application

The Code of Conduct applies to you whenever you are acting in your capacity as a Member (to include co-opted Members and the Elected Mayor) of Leicester City Council, including:

- a. At formal meetings of the Council, its Committees and Sub-Committees, its Executive and Executive Committees
- b. When acting as a representative of the Authority
- c. In taking any decisions as a Member of the Executive or as a Ward Councillor
- d. In discharging your functions as a Ward Councillor
- e. At briefings meetings with officers
- f. At site visits
- g. When corresponding with the Authority other than in a private capacity
- h. At any other time when you conduct the business of your Authority

* The Code therefore applies when performing your duties in meetings, or when acting alone, and it applies whether you are acting inside or outside of the City boundary

2. Principles

The Principles underpinning this Code of Conduct are that you will act with:

- a. Selflessness
- b. Integrity
- c. Objectivity
- d. Accountability
- e. Openness
- f. Honesty
- g. Leadership
- h. Respect for others
- i. A commitment to uphold the law

3. General conduct

You must, therefore:

- a. Respect others and not bully or intimidate any person
- b. Respect the confidentiality of information which you receive as a Member. In addition you must (i) not disclose confidential information to third parties other than in accordance with the law and (ii) not act to prevent a third party gaining access to information to which they are entitled in law
- c. Exercise your own independent judgement, paying due regard to any advice provided to you by the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and giving reasons for your decisions as required by the law and the reasonable requirements of the Authority
- d. Uphold the law at all times
- e. Uphold and promote the Authority's discharge of its Equality obligations, in particular to (i) eliminate discrimination (ii) promote equality of opportunity (iii) foster good relations
- f. Uphold and promote these principles by leadership and by example, and act in a way that secures and preserves public confidence
- g. Comply with the requirements regarding registration, declaration and participation in the Authority's business where you have a Disclosable Pecuniary Interest (DPI) or "Other Disclosable Interest (ODI)"
- h. When using the Authority's resources, do so in accordance with the Authority's requirements, and not use such resources improperly
- i. Not conduct yourself in a manner which is likely to bring the Authority into disrepute
- j. Not use your position as a Member to improperly confer upon yourself or any other person an advantage or disadvantage, but act only to further the public interest
- k. Not do anything which compromises, or is likely to compromise, the impartiality of those who work for (or work on behalf of) the Authority

(The above list is not exhaustive, and any conduct which breaches the principles set out in section 2 can constitute a breach of this Code)

4. **Disclosable Pecuniary Interests (DPis)** (see Table 1 enclosed)

In addition to conducting yourself in accordance with the principles set out in section 2 you must:

- a. Ensure that your Register of Interests is kept fully up to date, and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs
- b. Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.
- c. Comply with the statutory requirements to withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest (DPI), by either leaving the room or by ceasing further participation in the item (where acting alone outside of a meeting)
 - The requirements cover not only DPI's of Members but a DPI of any other "relevant person", defined as spouse/civil partner, or someone with whom the Member is living as though they were a spouse or civil partner
 - Separate provisions within the law provide for the circumstances in which a Member may seek a "dispensation", or may ask that the interest be treated as "sensitive"

5. Other Disclosable Interests (ODIs) (pecuniary or non-pecuniary)

Aside from the statutorily defined DPIs, you may have another type of interest in a matter being discussed. These will be of category A. or B. below and you will either:

- disclose that interest (regular ODI), or
- disclose and withdraw from the meeting (prejudicial ODI).

A. Regular ODI

You will have an "Other Disclosable Interest" in an item of business of the Authority where:

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you, or a member of your family or a person with whom you have a close association (see below), to a greater extent than it would affect the majority of Council Tax payers, ratepayers or inhabitants of the Ward or electoral area

- You may need to register such "Other Disclosable Interest" into the Register of Interests operated by the Monitoring Officer

- If you attend a meeting at which any item of business is to be considered and you are aware that you have an “ODI” in that item, you should make verbal declaration of the existence and nature of that interest at or before the consideration of that item of business, or as soon as the interest becomes apparent

B. Prejudicial ODI

In addition to the above:

Where your ODI is of a nature where a member of the public, who knows the relevant facts, would reasonably think your “other disclosable interest” is so significant that it is likely to prejudice your judgement of the public interest you should disclose and withdraw from participating in respect of that matter

- “close association” is not defined in law but would reasonably include someone with whom you are in regular or irregular contact over a period of time, who is more than an acquaintance, and is someone whom a reasonable member of the public might think you were prepared to favour or disadvantage when discussing a matter that affects them.

6. Gifts and Hospitality

- a. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the authority
- b. The Monitoring Officer will place your notification on a public register of gifts and hospitality
- c. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose

7. Other

Breaches of this Code will be dealt with under the “Standards Arrangements” as approved by Council on 28.06.12

By virtue of section 28(4) Localism Act 2011 a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with this Code

Table 1**Categories of DPIs**

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS AT
LEICESTER CITY COUNCIL UNDER THE LOCALISM ACT 2011**

A. CONTEXT

These “Arrangements” set out how you may make a complaint that an Elected or co-opted Member of this Authority has failed to comply with the Authority’s Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “Arrangements” under which allegations that a member or co-opted member of the Authority or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member against whom an allegation has been made

B. THE CODE OF CONDUCT

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from Reception at the Civic Offices. <http://www.leicester.gov.uk/councillors-democracy-and-elections/complaints-about-councillors/>

C. PRINCIPLES UNDERLYING THE NEW SCHEME

The following principles should underpin Leicester City Council’s Arrangements:

- a. There should be simplicity to the scheme so that it is easily understood and transparent

- b. There should be flexibility at every stage of the process for informal resolution and / or robust decisions to be taken about “no further action”.
- c. There should be Member involvement at key stages in the process.
- d. There should be the involvement of Independent Members (IM) and the Independent Person (IP) at key stages of the process.
- e. The Monitoring Officer should have greater powers to deal with complaints relating to the Code of Conduct.
- f. Rights for complainants to seek a “review” of a decisions at various stages should be limited, consistent with the reduced scope and severity of allowable outcomes that can be imposed under the new regime
- g. At any stage in the process where it is clear that a matter should be referred to the police this should be done and the local investigation should be suspended.

D. THE NEW PROCESS

1. Who may complain?

Complaints must be about Elected Members (to include the Elected Mayor) or co-opted Members and can be made by members of the public, Elected Members or officers of the Council. Where the Monitoring Officer lodges a complaint, it shall be made to the Standards Committee via the Deputy Monitoring Officer

2. To whom must a complaint be made?

Complaints must be made to the Standards Committee c/o the Monitoring Officer by writing to:

The Monitoring Officer
Legal Services Division
Leicester City Council
A Block, New Walk Centre
Leicester
LE1 6ZG

Or email: monitoring-officer@leicester.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the system in respect of complaints of member misconduct on behalf of the Standards Committee

In order to ensure that all of the correct information is available to process the complaint they should preferably be submitted on the model complaint form, which can be downloaded from the authority’s website and is available on request from Reception at the Civic Offices.

The complainant should provide their name and a contact address or e-mail address, so that the Monitoring Officer can acknowledge receipt of the complaint and keep them informed of its progress. If the complainant wishes to keep their name and address confidential this should be discussed with the Monitoring Officer. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

Complaints should be lodged promptly, and normally within 3 months of the alleged breach occurring unless there are good reasons for the Monitoring Officer or Independent Person to accept a complaint lodged outside of this period.

3. How to complain?

Complaints must be made in writing either by letter, e-mail or on-line. Anonymous complaints will not be accepted because of the difficulties they cause with investigation. Appropriate safeguards for employees of the Council wishing to make a standards complaint will be afforded in parallel to those that might apply under the whistle blowing policy. Safeguards will also be in place, at the discretion of the Monitoring Officer, to protect confidential or sensitive information about a complainant, the disclosure of which may cause, or be likely to cause, "serious harm"

The complainant should be encouraged (either through questions on the standard complaint form or through subsequent discussion for clarification) what remedy is sought. This will help to identify informal methods of resolution at the earliest stages.

4. What will happen to the complaint?

The complaint will be acknowledged with the complainant within 5 working days

The complaint will also be notified (by sending a copy of the full complaint) to the subject Member within 5 further working days, save where there are exceptional or legal reasons for the Monitoring Officer agreeing with the complainant that there are elements of it, or the entirety of it, that must be kept confidential at this initial stage

Within 15 further working days the following actions will be taken by the Monitoring Officer, after consultation with the Independent Person:

- a. Revert to the complainant to seek further clarification.
- b. Refer the matter for further fact finding by Monitoring Officer (where further information is needed before deciding what route to follow).
- c. Reject the complaint on the grounds that it is not related to the Code of Conduct, or may be covered by another process
- d. Reject the complaint on the basis that it is (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious.
- e. Recommend informal resolution (i.e. complaint potentially valid and substantiated but of sufficiently low level not to warrant investigation).
- f. Refer the matter for immediate further investigation.

- g. In exceptional cases, refer the matter to the Standards Committee or subcommittee thereof for a decision on a. to f. above on the grounds that the Monitoring Officer feels it would be inappropriate to make the decision himself/herself.

The complainant and the subject Member will receive a letter after expiry of the 5 days indicating which of the above outcomes is to be pursued.

Review of a complaint - The complainant may seek a “review” of a decision only under outcomes c. d. or e. Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person.

Matters referred for fact finding - The Monitoring Officer will undertake this fact finding exercise by inviting the Member to attend for a discussion within 10 working days, or submitting information in writing. After obtaining the subject Member’s factual account the Monitoring Officer will engage with the Independent Person (IP) to decide on next steps. The next steps will comprise either of outcomes c. to g. above.

Informal resolution - may incorporate acceptance by the subject Member that their behaviour was unacceptable and the offer of apology to the complainant, or other remedial action at the discretion of the Monitoring Officer (e.g. an offer of training). The outcome of ‘informal resolution’ does not require approval of the complainant or the subject Member (though the complainant may exercise a right to seek a “review” as per above)

In the case of all outcomes up to and including referral for formal investigation, the Monitoring Officer will report outcomes to the Standards Committee by updating report at each meeting

Formal investigation - should the matter warrant detailed investigation, the Monitoring Officer will appoint an investigating officer. The investigator will conduct a thorough review within three months. Upon receipt of the investigator’s report by the Monitoring Officer he/she will refer the matter for further decision to the Standards Committee (acting through its Standards Advisory Board), this time with the mandatory requirement to consult the Independent Person, who may determine:

- no further action
- referral for hearing

The option of ‘no further action’ may only flow from an investigator’s own conclusion that no breach has occurred. If the Investigator finds breaches, then the Board cannot decide, without a hearing, that no breach has occurred and no further action needs to be taken.

The option of ‘informal resolution’ is not available once a matter has been referred for formal Investigation (and the Investigator finds breaches). Equally, where the Board refer a matter for hearing in order to establish if breaches have occurred (for example after disagreeing with an Investigator who concludes there have been no breaches) informal

resolution will not, at that point, be a viable outcome because the matter has ceased to be dealt with 'informally'.

If the matter is referred for hearing then a Hearing Panel will be convened to hear the evidence, make findings of fact and determine appropriate outcomes. The Hearing Panel is a sub-committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Hearing Panel and his/her views are sought and taken into consideration before the Hearing Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of misconduct.

The complainant and the subject member would be written to and given reasons for any decision following a formal investigation, and no rights of review shall be afforded, save the right to challenge the process by way of Judicial Review or referral to the Local Government Ombudsman if appropriate

5. Outcomes

The Hearing Panel may make recommendations to the Standards Committee for:

- a. Censure or reprimand the Member by letter
- b. Press release of findings
- c. Report findings to Council for information (with or without a subsequent motion of censure being proposed by Council)
- d. Recommendation to Group (or Full Council in the case of ungrouped Members) of removal from Committees/subcommittees of Council
- e. Recommendation to Elected Mayor that the Member be removed from The Executive, or from particular portfolio responsibilities
- f. Recommendation that the Member be removed from outside bodies to which they have been appointed by the Council
- g. Withdrawal of facilities provided to the Member by the Council
- h. Excluding the Member from the Council's offices or other premises (with the exception of accessing meetings of Council, Committees and subcommittees)
- i. Instructing the Monitoring Officer to arrange training for the Member

6. Revision of these arrangements

The Council may by resolution agree to amend these arrangements at any time, and delegates to the Monitoring Officer and/or Chair of the Standards Committee the right to depart from these arrangements where he/she considers it is necessary to do so in order to secure effective and fair consideration of any matter

**LEICESTER CITY COUNCIL
GOOD PRACTICE GUIDANCE FOR MEMBER INVOLVEMENT IN PLANNING
AND DEVELOPMENT CONTROL DECISIONS
MAY 2013**

1. WHY GOOD PRACTICE GUIDANCE IS REQUIRED

- 1.1 As an Elected Member one of your key tasks may be to get involved in planning matters through representing your Constituents; or as a Member of the Council's Planning & Development Control Committee deciding planning matters (e.g. applications and enforcement); or as an Executive Member considering development of the Council's planning policies.
- 1.2 The key purpose of Planning Committee decision making is the consideration of private proposals and balancing these against the wider public interest. Committee Members should consider themselves strategic decision makers. Planning decisions can be controversial and sometimes questions are raised about planning decision making. The aim of this Guidance is to demonstrate that in the planning process in Leicester there has been objective transparency and any decision is justified based on material and relevant planning considerations.

2. WHEN THE GOOD PRACTICE GUIDANCE APPLIES

- 2.1 This Guidance applies at all times to Committee Members involved in the planning decision making process. This includes meetings of the Committee, meetings in connection with any pre-application process, meetings with Officers or the public e.g. consultative meetings.
- 2.2 It also applies to non-Committee Members when they have any involvement in a planning matter be it either their own Planning Application, or that of

somebody else's (whether it affects their own property or not), or through being lobbied.

- 2.3 If you have any doubts about the application of the Guidance, you should take advice from the Head of Planning and/or Legal Services

3. RELATIONSHIP WITH THE MEMBER CODE OF CONDUCT

- 3.1 The City Council's Member Code of Conduct (this is the document which, by law, must set out expected standards of behaviour of all Elected Members, breaches of which are reported to the Monitoring Officer and are dealt with under the Standards arrangements) must be complied with throughout the Committee decision making process therefore:

- Do apply the rules in the Member Code of Conduct first at all times. Members should pay particular regard to the rules concerning declaration of interests.
- Do then apply the advice contained in this Guidance which seeks to supplement the Members Code of Conduct for the purposes of planning decision making or involvement in planning matters as a non-Committee member.

- 3.2 If you do not follow this Guidance the following risks arise:

- The City Council is at risk of legal proceedings (Judicial Review) on the legality of any decision taken; and/or a complaint to the Ombudsman for maladministration and
- As a Member a complaint could be made against you regarding your conduct.

- 3.3 In the event of a conflict between this Good Practice Guidance and the Members' Code of Conduct the latter will prevail.

4. MEMBERS' OWN PLANNING APPLICATIONS

4.1 For obvious reasons any person who has a significant interest in the outcome of a planning decision should not take part in the decision making process. There is no objection to a Member (as a citizen) making their own planning application, but they should be open and transparent about it and declare the existence and nature of their interest.

4.2 Where such situation arises, the following applies:

- Do not participate or give the appearance of trying to participate in the making of any decision on the application by the City Council. This is a Disclosable Pecuniary Interest (DPI) and under the Localism Act 2011 participation is a criminal offence.
- Do not get involved in the processing of the application.
- Do not seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Member.
- Always be open and transparent about the application particularly in your dealings with Planning Officers and do not assume the Officer knows that you are a Member.
- You should:
 - Ensure that you complete the Authority Employee/Member section of the planning application form

- Notify the Council's Monitoring Officer in writing of the application no later than submission of the proposal.
- Note that the application/other relevant planning matter will always be reported to the Committee for decision. It is permissible for you to make written representations to Officers about any proposal.
- Consider employing an agent to act on your behalf in dealing with Officers and in relation to any public speaking at the Committee (but see below).
- Think very carefully about whether you attend the Planning Committee that considers the matter. In circumstances where an Applicant has a right to speak, you will need to arrange for someone to speak on your behalf, save in circumstances where the Monitoring Officer has granted you a dispensation in accordance with the Member Code.

4.3 If a member is unsure whether they have a significant interest in the outcome of a planning application they should seek advice from the Council's Monitoring Officer

5. COMMITTEE MEMBERS' OTHER INTERESTS

5.1 For Committee Members, and depending on the factual circumstances, an interest arising may require declaration or mention in accordance with the Member's Code of Conduct, either as a DPI, an Other Disclosable Interest (ODI) or a concern about apparent bias or predetermination. In accordance with the Code of Conduct and the Council's Constitution where a Member has a DPI or a prejudicial ODI you may not vote or participate in a decision on the matter in respect of which the interest arises and must leave the room unless they have been given a dispensation by the Monitoring Officer in accordance

with the Member Code. Declarations of bias and predetermination should also require the member to refrain of taking part in decision-making, or the influencing of decisions (see section 8 below).

- 5.2 Where a planning matter directly affects a Committee Member as an individual e.g. a Planning Application next door to where the Member lives, then advice should be taken from the Council's Monitoring Officer about involvement. There are obvious dangers in the Member taking part in the planning decision-making process (see 5.1). Where a Committee Member has a DPI or prejudicial ODI, as well as leaving the room they will also be unable to address the Committee on the application. However the Member can arrange for a representative to address the Committee on their behalf and such representations should be expressed as being made on behalf of Councillor X as a person directly affected by the application. Similarly if the Committee Member wishes to submit a written representation, it should be expressed to be submitted from or on behalf of Councillor X as a person directly affected by the application. This practice should also apply to Committee Members who make declarations in respect of predetermination and apparent bias (see section 8).

6. ATTENDANCE OF NON-COMMITTEE MEMBERS

- 6.1 Elected Members who are not Members of the Planning Committee do, in certain circumstances, have the right to speak at a Committee meeting.
- 6.2 Where a non-Committee Member wishes to make representations to the Committee s/he needs to notify the Committee Chair and Democratic Services no later than 12 noon of the day of any Committee Meeting. It is a matter for the Chair's discretion to allow non-Committee Members to speak if they have not given the required notification.
- 6.3 Non-Committee Members will be required to make an appropriate declaration. Members who have a DPI or prejudicial ODI may only attend and speak if

they have received a dispensation granted at the discretion of Monitoring Officer in accordance with the Member Code.

- 6.4 Non-Committee Members will sit in the public gallery and the Chair will call them to the Committee table to sit in the designated place.
- 6.5 A non-Committee Member is expected to keep his/her representations within 5 minutes. A member of the public speaking on an application is also given 5 minutes to make his/her representations. After the non-Committee Member has spoken, the Chair will invite Officers as appropriate to respond but the non-Committee Member will not have a right of reply.
- 6.6 Exceptionally a Committee Member may wish to stand down to make representations to Committee as a Non-Committee Member. The same provisions as above will apply to Committee Members in these circumstances. Extra care will be required to ensure that appropriate declarations are made.
- 6.7 Where a planning matter directly affects a non-Committee Member as an individual, such that they have a DPI or prejudicial ODI, it is not permissible for the Member to address Committee. As with clause 5.2 above (in respect of Committee Members) the Member can arrange for a representative to address Committee on their behalf.

7. MEMBER INVOLVEMENT IN WARD ISSUES

- 7.1 All Members will respect the expectation that in relation to planning issues in any Ward the primary responsibility for dealing with them is on the relevant Ward Members.
- 7.2 In the case of a Member who is also a Committee Member it is suggested that they should not deal with planning issues in their Ward. In such circumstances a fellow Ward Member should be asked to assist. Should the issue result in a Member attending at a Committee to make representations

the Chair will enquire of the Member whether or not they have had contact with the relevant Committee Member and if there has been no contact the Chair has discretion whether or not to allow the representations to be made.

- 7.3 There are circumstances where an applicant or objector may want to contact a Member outside of their Ward (e.g. in a situation where an objector does not have the support of Ward Members). Where any Member is approached to make representations to, or attend a Planning Committee meeting on behalf of any one individual in relation to any planning issue not in their Ward, they are expected as a matter of courtesy to notify the Ward Members concerned. In the absence of such notification, the Chair has discretion whether or not to allow the Member concerned to attend for that purpose at any Committee Meetings. Any non-ward Members speaking at Committee in this capacity shall be speaking as a Member. According to law Members cannot choose to shed their elected Member status when addressing a Committee of their Council.

8. DECISION MAKING - BIAS AND PREDETERMINATION

- 8.1 Planning Committee decisions must only be made on the basis of material and relevant planning considerations/merits.
- 8.2 Predetermination arises when someone has a closed mind so that they cannot consider any subsequent information presented and they have made their mind up. This can lead to legal challenges.
- 8.3 To participate in decision making on planning matters, Committee Members must not have a closed mind. Decisions can only be taken once all Committee Members present have read, seen and heard all the information presented including the Officers Report, any Addendum Report and information provided under the public speaking provisions.

- 8.4 The Localism Act 2011 makes it clear that a Member does not have a closed mind on a particular issue just because they have indicated what view they may or may not take before the issue is decided. This means that a Committee Member is not prevented from participating in decision making in relation to a matter which they have campaigned on a particular issue or have made public statements about any approach provided at the time of decision making the Committee Member has not closed their mind.
- 8.5 For Committee Members to refrain from having a closed mind they must be amenable to changing their views in the light of all the information presented to them.
- 8.6 Great care is needed where any application before the Committee involves the Council as developer/landowner. Council applications should not be given any preferential treatment.

9. PRE-APPLICATION PRESENTATION/MEETINGS WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 9.1 It is recognised that pre-application discussions assist with the planning process provided they take place within clear parameters and governance arrangements.
- 9.2 Member engagement in pre-application discussions on major developments (10 or more dwellings or 1,000 square metres commercial or other floor space) is encouraged. The following safeguards have been developed to prevent any allegation of bias or predetermination being made against Committee Members:
- Do not agree to any formal meeting with applicants, developers or groups of objectors without consulting the Head of Planning (for ad hoc/informal meetings refer to Section 11 “Lobbying” below).

- A Planning Officer must always be present at any planned meetings. It will be for the Officer to explain the constraints on Members. The Officer will prepare a written note of the meeting which will be publicly available (in circumstances where any applicant/developer asked for proposals to be treated as confidential any public note will cover non-confidential issues only and general advice given).
- Remember to follow the advice on lobbying (see below).
- Committee Members can ask questions and comment on any proposals but should not give the impression/appearance from any such questions etc. that they have a predetermined view.
- Do report any prior significant contact with any applicant or other parties to the planning case officer or Head of Planning and explain the nature and purpose of the contacts and your involvement and ask him/her to ensure that this is recorded on the planning file.
- Do make it clear that at any meeting/presentation it is not part of the formal decision making process and any view expressed by you as a Member is both personal and provisional since not all relevant information will be to hand and the views of other interested parties may not have been obtained.

9.3 The Head of Planning will arrange for appropriate presentations to be made in respect of significant Planning Applications which will be open to all Members. Such presentations will be of a fact finding nature to enable all Committee Cabinet Members to become familiar with what the application proposes and to ask questions. As mentioned above Committee Members can ask questions and comment on any proposals but should not give the impression/appearance from any such questions etc. that they have a closed mind. In this way there is no objection or bar to them subsequently sitting on the Committee and making a decision on the application as presented.

10. REFERRAL OF APPLICATIONS FOR DECISIONS TO THE PLANNING AND DEVELOPMENT CONTROL COMMITTEE

- 10.1 Members should contact the Head of Planning as soon as possible about any applications included on the weekly list of applications circulated to them that they consider should be the subject of a Committee decision.
- 10.2 Contact should be written and preferably by e-mail. The planning reasons for the request must be given. Where appropriate a Planning Officer is able to assist Members with the formulation of reasons which can include design, highway issues and impact on amenity of local residents.
- 10.3 Members need to be aware that to meet Government targets decisions on applications are taken quite quickly after the circulation of a weekly list and they are advised therefore to check with case officers of timescales to ensure any requests they make can be considered.
- 10.4 If any Member wishes their particular view to be considered and included in the Planning Officer's Report such representations must be made in writing to the planning officer as soon as practicable after the Member has been alerted to the existence of the Planning Application.

11. LOBBYING OF COMMITTEE MEMBERS

- 11.1 Lobbying by the public or other Members is a legitimate political activity. When Committee Members are lobbied, care needs to be taken to avoid any challenge of predetermination or bias or an allegation of breaching the Member Code of Conduct.
- 11.2 So:

- While you can listen to what people want to say to you about planning proposals and you can always give procedural advice as to how applications should be taken forward and agree to pass any comments on, it would be better when contacted directly to pass the matter on to a fellow Ward Member not on the Committee or indicate that contact be made with the Head of Planning or appropriate Planning Officer (see section 7).
- Do not favour any person, company, group or locality or make any commitment to a particular point of view on a planning application prior to its consideration by the Committee.
 - Do not make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the Committee Meeting and to hearing the Officer presentation and all information presented to the Committee.
 - When you have received any direct representations in connection with any Planning Application before the Committee you need to declare the nature of those representations e.g. e-mail received, photographs or drawings received, attendance at meeting, any presentations, any meetings with the applicant or third party etc. You should also disclose to the Committee the general tenor of your response (i.e. supported/opposed/remained neutral and gave procedural advice/referred to another Councillor etc). Where the lobbying results in your having a closed mind you should, in addition, withdraw from sitting on the Committee for that item, preferably by prior arrangement.

11.3 Political group meetings prior to the Committee Meeting should not be used to determine how you or other Members should vote. The Ombudsman has ruled that the application of a group whip to a planning matter could constitute Maladministration.

12. MEMBERSHIP OF OUTSIDE BODIES

- 12.1 If you are a Committee Member do not become a member of any organisation whose primary purpose is to promote, oppose or advise on development proposals, in Leicester, whether generally or specifically.
- 12.2 As a Member there is no prohibition on joining general interest groups which might reflect your areas of interest and which concentrate on issues beyond particular planning proposals such as CPRE or local groups such as the Civic Society. Where you are a Committee Member it is suggested that you do not get involved in any representations made by an external interest groups you are involved in and make the appropriate declaration at any subsequent Committee Meeting.

13. COMMITTEE ADDENDUM REPORT

- 13.1 To enable any last minute issues to be considered, the Director prepares an Addendum Report. Committee Members will be provided with the report by e-mail and it will be available in the Group Rooms from 16.00 hours on the date of the Committee. Where the last minute issues lead to a fundamental change of recommendation (e.g. from refusal to approval or vice versa), the Addendum Report will recommend deferral unless the possibility has already been identified in the original report.
- 13.2 As necessary the Director or Planning Officer presenting the Report will refer to the Addendum Report when relevant as part of the oral presentation in connection with reports before the Committee.
- 13.3 Representations received after the Addendum Report has been finalised, will be summarised orally.
- 13.4 Written representations of applicants, objectors and/or third parties, including those arising from public speaking will only be circulated if the necessary

copies for all Committee Members and supporting officers has been provided in advance.

14. RUNNING ORDER OF COMMITTEE AGENDA

14.1 The Chair has discretion to determine the order in which Committee Reports are considered and s/he will consider this in relation to the number of members of the public/Members who are present who wish to speak on any particular report.

14.2 The Council has introduced public speaking at the Planning Committee and this sets out the process and procedure to be followed including the Order of speakers. Prior to any summing up by the Committee Chair, the Head of Planning will be entitled to provide final Officer comment.

15. VOTING

15.1 Voting at the Planning Committee will be by a show of hands. The other provisions in the Council's Constitution with regard to voting (request for recorded vote, chairs casting vote etc.) will apply.

16. DEPARTURES FROM OFFICER RECOMMENDATIONS

16.1 Committee Members wishing the Committee to consider a different recommendation from that made by the Director must move an amendment giving planning reasons and have it seconded. As necessary the Chair will then seek clarification for the planning reasons and take advice from the Head of Planning and Solicitor. The planning reasons will be recorded in the minutes.

16.2 Where no amendment is moved and seconded but the Committee votes to reject the Officer recommendation, the Chair will ask the committee to clarify the planning reasons for the vote, which will form the basis of a second vote. If this is not possible, the application will be deferred until the next meeting of the Committee. At that subsequent meeting the Director will table his understanding of the reasons why the Committee rejected the recommendation and the Committee will then vote to confirm the reasons put forward by the Director or not as the case may be.

17. DELEGATION OF DECISIONS TO OFFICERS

17.1 The Committee may agree to delegate any further decision (e.g. finalisation of conditions to be attached to the grant of Permission) to the Director even where the decision would normally be reserved to the Committee under the Scheme of Delegation of Development Control Decisions to Officers.

18. SITE VISITS

18.1 Site visits should only be required where there is a need to view the site so this might arise where:

- Particular site factors are significant in terms of the weight to be attached to them, such as design in the context of a locality or
- Details of any proposals cannot be reasonably ascertained from the information in the Committee Report and the photographs and plans available from the screen presentation.

18.2 A decision to have a site visit has to be moved and seconded and agreed by the Committee for valid planning reasons which will be minuted.

- 18.3 Site visits do not have decision making status and will be arranged by the Head of Planning. All Members will be notified of the visits by Democratic Support. A Planning Officer will be present throughout.
- 18.4 On no account should any Committee Member present at a site visit express a view on the merits of the application and wherever possible not engage in any dialogue with the Applicant/Owner, or any other third parties during the visit.
- 18.5 The expectation will be that the Committee Members will attend the site visit and the Head of Planning will seek to arrange the time convenient for Members. Where a Committee Member is not able to attend the site visit s/he may visit the site separately although Members should not enter onto the site without the Owner's consent. As with an organised site visit an individual Member should not engage in any dialogue about the application etc.

19. ATTENDANCE AT COMMITTEE

- 19.1 Planning Applications may in some cases come before the Committee on more than one occasion. For example, the Committee may decide to defer an application for a site visit or further information.
- 19.2 It is important that Committee Members taking decisions are in possession of all the facts. Attendance of Members on all occasions when an application has been considered by Committee will not only demonstrate that Committee Members are fully informed but will also ensure high quality consistent and sound decisions are made minimising the risks of any legal challenge.
- 19.3 If as a Committee Member you have not been able to attend meetings in connection with an application that has been deferred e.g. for a site visit, you should only take part in such a decision making process if you are satisfied that you can reasonably and properly do so in all the circumstances. Advice

on involvement can be obtained from the Head of Planning and the Monitoring Officer.

20. OFFICERS

20.1 Members and Officers have different but complementary roles. Both serve the public but Members are responsible to the electorate while Officers are responsible to the Council as a whole. Accordingly:

- Do not put pressure on Officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Head of Planning or the Director.
- In the first instance any contact by Members (Committee or non-Committee) about planning issues should be with the Head of Planning or other Officers authorised by the Director to have contact with Members. Note that any contact between a Member and Officer will be recorded in the Council's file.

21. APPEALS

21.1 The Director will prepare and where necessary present the City Council's case in an appeal based on the terms of the decision and the material considerations on which the decision was made. The best possible arguments and available evidence in support of the decision will be presented whether or not the Committee's decision was in accordance with the Director's recommendation.

21.2 Where the Committee's decision was not in accordance with the Director's recommendation and any subsequent appeal is to be determined at a Hearing or Public Inquiry the Chair or as appropriate an alternative Committee

Member will be required to be the Council witness. The Head of Planning will arrange appropriate Officer support but in accordance with professional requirements, will be provided in a way so as Officers are not put in a conflict of interest situation arising from their professional opinion on the matter in question.

22. TRAINING

22.1 It is mandatory that Members serving on the Committee must attend annual refresher training and where appropriate initial training. Substitute Members have to comply with the training requirement.

22.2 Initial basic training will be provided at the start of each Council Municipal Cycle (2011, 2015 etc.). Mandatory annual refresher training will be arranged to take place as soon as possible after the Council's Annual General Meeting in May.

NATIONAL CODE OF PRACTICE ON PUBLICITY

Subject Matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority;
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority;
 - (iii) in areas where central government, another tier of local government, or another public authority have the primary service of policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.

7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses and which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary
 - (ii) where it is statutorily required, the purpose to be served by the publicity
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the Council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative and accurate. It should aim to set out the reasons for the Council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate – for example about the local authority's sports and leisure facilities or about tourist attractions.

16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the Council is unavoidable, particularly given the need for Councils to consult widely whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although they should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the Council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are able to reach far wider audiences than publicity available on application to the Council.

24. Such publicity should be targeted as necessary for its purposes, taking particular care with material touching on politically controversial issues.
25. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of dissemination information or facilitate consultation and can provide a means for local people to participate in debate on decisions the Council is to take. Inevitably they will touch on controversial issues and where they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
26. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations and making use of electronic communication systems.

Advertising

27. Advertising, especially on billboards or on television and radio is a highly intrusive medium. It can also be expensive. It may, however, provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism and in the area of economic development generally.
28. The primary criterion for decision on whether to use advertising should be cost-effectiveness.
29. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments and markets views and opinions.
30. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
31. The attribution of advertising material, leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
32. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the condition attached to a grant may require the provision of publicity, including publicity for the work of the authority.

33. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
34. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

35. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as whole whatever its composition.
36. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
37. Advertisements for staff should not be placed in party political publications.

Individual Councillors, Elections, Referendums and Petitions

38. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillor's proposals, decisions and recommendations where this is relevant to their position and responsibility within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors, personalisation of issues or personal image making should be avoided.
39. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe an individual councillor's policies and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.
40. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of those politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a political response to an important event outside the authority's control. It is advisable that proactive events involving members likely to be standing for election are not arranged in this period.

41 The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 prohibit an authority from incurring any expenditure to:

- publish material which appears designed to influence local people in deciding whether or not to sign a petition;
- assist anyone else in publishing such material; or
- influencing or assisting others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details about the petition proposition and to explaining the Council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

42 Local authorities should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and does not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

Assistance to Others for Publicity

43. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants
- (b) make the observance of that guidance a condition of the grant or other assistance;
- (c) undertake monitoring to ensure that the guidance is observed.

44. It will often be appropriate for local authorities to help charities and voluntary organisations not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis and

authorities may be able to draw on their powers of well being in section 2 of the Local Government Act 2000.

PROBITY RULES FOR PARTNERSHIPS WITH COUNCIL PARTICIPATION

Any partnership in which the Council participates must be asked to observe the General Principles of Conduct (or justify any departure) and to observe the following rules.

Public Duty and Private Interest

1. If you have a private or personal interests in a question which is to be considered by the partnership, you should declare your interest and have it formally recorded.
2. You should never do anything which you could not justify to the public or to your organisational management.
3. It is not enough to avoid actual impropriety. You should always avoid the opportunity for suspicion or appearance or improper behaviour.

Pecuniary and other interests

4. Agendas will have an item requesting that interests be declared.
5. If you have a pecuniary interest in a question which is to be considered by the partnership, you should declare your interest, have it formally recorded and vacate the room.
6. If you have an interest in which you might appear at risk of bias by putting private considerations above the public interest, you should declare your interest, have it formally recorded and vacate the room.
7. In considering interests, consideration should be given to the interest of a partner, close relatives or other person forming part of the same household, again applying the principle of avoidance of suspicion.

Gifts and Hospitality

8. If you receive any gift or hospitality as a member of a partnership, in that capacity, you should notify and have it formally recorded within your own organisation.

Membership of Partnership

9. The value is well recognised of different agencies and organisations playing an active part in partnerships. Whatever role you have, you must ensure that your responsibilities within the partnership do not clash with other responsibilities you also hold – whether as an Elected Member, Company Director or employee, paid official or in a voluntary capacity – so that your position is weakened to such an extent that your position becomes untenable.

Leicester City Council

Petitions Scheme

1) Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This will set out what we plan to do with the petition and when you can expect to hear from us again.

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition and contains details and signatures of two or more people. The people who sign the petition must live, work or study in Leicester. However where a matter may impact significantly beyond the city boundary, the City Mayor may exercise discretion to take the views of stakeholders outside the city into account.. We categorise our petitions as follows – further details on these categories are explained in more detail later in this scheme:

Category	Signatory threshold	Description
Petition which triggers a debate	1,500	Any petition above this threshold will trigger a debate at Full Council
Petition which calls an officer to account	750 – 1499	Any petition above this threshold will summon a senior Council officer to give evidence at a public meeting
Standard petition	2- 749	A petition requesting action or response by the Council

2) How can I submit my petition?

Paper petitions must be sent to:

Democratic Support Town Hall,
Town Hall Square
Leicester
LE1 9BG

e-Petitions:

Petitions can be created, signed and submitted online via the Council's website.

In addition to submitting a hard copy petition or an e-petition you may also verbally present your petition at a relevant meeting of the Council or its committees. Meetings take place on a regular basis and dates and times are published on the Council's website. Where this happens the normal process is that the text of the petition is read out at the meeting following which, without any debate on the issues, the Committee asks the relevant officer to prepare a formal written response to the petition.

If you would like to present your petition to a Council meeting or would like your Councillor or someone else to present it on your behalf, please contact Democratic Support on 0116 229 8818 at least 10 working days before the meeting and they will talk you through the process.

3) How will the Council process my petition?

Once a petition is received it will be checked to see if meets the criteria defined in the Scheme and the Appendices. If there are any concerns about the validity of a petition, for example where key information is missing, the Council's Monitoring Officer will be consulted and will determine if the petition is valid. We will inform you if we consider the petition to be invalid and the reason why.

Following the above, and within 10 working days of receiving the petition, an acknowledgement will be sent to the lead petitioner. Once the petition has been verified and acknowledged no further signatures can be added to the petition.

To ensure that people know what we are doing in response to the petitions we receive, details of petitions submitted to us will be published on our website, except in cases where this would be inappropriate. The name of the petition organiser will be placed on the website but not their contact details.

The key Council roles in addressing petitions are:

- **Executive** - Determining the course of action to be taken in light of a petition is the responsibility of the City Mayor and his Executive team (his Deputy and Assistant Mayors). Responses to valid petitions will be approved and signed off by the City Mayor or an appropriate Assistant Mayor.
- **Lead Officer** - Each petition is allocated a lead officer who will co-ordinate the response. Where a petition relates to a particular area or Ward in the city, information will also be shared with the relevant Ward Councillors, who will want to ensure their constituents receive a timely and thorough response
- **Scrutiny** - Information on all petitions is shared with the Council's Overview and Scrutiny Committee and Scrutiny Commissions who focus on whether petitions are being responded to in a timely and sufficiently clear and robust manner. Scrutiny may also use petitions to identify where there may be issues in terms of Council policy or operational practice that they wish to review in more detail as part of their work programmes.

4) What are the guidelines for submitting a petition?

- Petitions submitted to the Council must include:
 - a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
 - details of each person supporting the petition including:
 - their name
 - their signature and;
 - their qualifying address (the qualifying address will be an address in the City where they work, live or study).
- Petitions must be accompanied by full contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The petition organiser should make clear that they live, study at an educational establishment or have a business address, within the city boundary. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.
- Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. Please read our Terms and Conditions (Appendix A) before submitting a petition.
- In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.
- If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.
- Before submitting a petition, you should first check with your local Councillor or with the City Council to see if action is already being taken in relation to your concerns and to determine if the Council is the most appropriate organisation to receive your petition.

5) How will the Council respond to petitions?

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting

will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

Our response to a petition will depend on what a petition asks for and how many people have signed it. These responses can include:

- taking the action that is requested in the petition,
- undertaking further research into the matter,
- referring the petition for consideration by one of the Council's scrutiny committees,
- or consideration in some form of public meeting.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible from the Council's website.

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

Officer evidence

If a petition contains between 750 – 1499 valid signatures the lead petitioner may ask that the relevant senior officer be called to give evidence at a public meeting of the Council's Overview Select Committee. Senior staff that can be called to give evidence are the Chief Operating Officer and Strategic Directors. You should be aware that the Overview Select Committee may decide that it would be more appropriate for another officer to give evidence instead of the officer role referred to in the petition – for instance if the named officer has changed jobs. The process that will be followed is explained below, however it should be noted that, where appropriate, Scrutiny Committees will sometimes seek to approach matters in a less formal manner.

The Overview Select Committee will normally endeavour to consider the petition at its next meeting. The petition organiser will be given five minutes to present the petition at the meeting, following this there will be an opportunity for the Director to respond for a maximum of 5 minutes, with the petition then discussed by Councillors for a maximum of 10 further minutes. The Overview Select Committee will then decide how to respond to the petition at the meeting and may:

- request the Executive to undertake the action the petition requests, or not, for reasons put forward in the debate, or

- recommend that further investigation is undertaken into the matter by the Executive.

As a scrutiny committee the Overview Select Committee has no power to make decisions on actions to be undertaken by the Council or Executive.

Full Council debates

If a petition contains more than 1,500 valid signatures the lead petitioner may ask that it be debated by the full Council (unless it is a petition asking for a senior council officer to give evidence at a public meeting). This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. In such cases petitions must be received by the Council at least 10 working days before the date of the Council meeting.

The Council will normally endeavour to consider the petition at its next meeting, although where this is not possible, consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 further minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the City Mayor is required to make the final decision, the Council may note the petition or make recommendations to the City Mayor. Council cannot make decisions where the subject matter of a petition falls to the Executive to decide.

6) E-petitions

What is an e-petition?

An e-petition is a petition which is submitted electronically to the City Council for consideration in relation to a particular issue or concern. It differs from a traditional paper based petition in that it is accessible to anyone who wishes to sign it through the Council's website. E-petitions must follow the same guidelines as paper petitions and will be dealt with in the same manner.

Who can submit an e-petition?

As with paper based petitions, to submit an e-petition to the City Council, you must live, work or study in the City. Therefore if you are not a resident of the city, please include your 'qualifying' address which will be an address in the City where you work, or study.

We need full contact details of the person who is leading on the petition. Therefore you would need to register on the website. It is a straightforward process which requires you to provide us with a few details for when we need to contact you about the petition.

There is a limit of 28 days for the petition to be 'live' on the Council's website for signatures. When the 'live' period is over, the way in which the Council responds, as with paper petitions, will depend on how many signatures are submitted.

Who can sign an e-petition?

If you are signing an e-petition you will be required to provide us with basic personal information (an email address and an address including postcode). Each signatory must give a separate email address. Your name (but no other details) will be published on the e-petitions section of the website. We will only use the information you provide to validate your signature and that you live, work or study in the City.

You can only sign an e-petition once. The list of signatories will be checked by officers and any duplicate signatures or vexatious, abusive or otherwise inappropriate content will be removed.

Further details in relation to e-Petitions is given in Appendix B.

7) What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly you may write to the Council's Monitoring Officer at the address below:

Kamal Adatia
City Barrister & Head of Standards
Leicester City Council
Town Hall
Leicester.

8) How else can I have my say?

The Council offers a range of ways in which members of the public can make their voice heard. These include:

- Contacting your local Councillor –
- contact details and regular surgeries are available at:
<http://www.cabinet.leicester.gov.uk/mqMemberIndex.aspx?GL=1&bcr=1>
- Regular 'Meet the Mayor' sessions – details are available on the Council's website at <http://citymayor.leicester.gov.uk/welcome/contact-me/>
- An opportunity to raise concerns at your local Ward Community Meeting – details can be found on the Council's website at http://www.leicester.gov.uk/wards/index_wards.asp

Details of the above can also be accessed by contacting:

Democratic & Member Support
Leicester City Council
2nd Floor, Town Hall
Leicester, LE1 9BG
0116 229 8818 /8855

Director of Delivery, Communications & Political Governance
Leicester City Council

Terms and Conditions

Petitioners may freely disagree with the Council or call for changes of policy. We will not attempt to exclude critical views and decisions to accept or reject will not be made on a party political basis. However, to protect this service from abuse, petitions should meet some basic criteria:

The Council shall only receive petitions which comply with this Rule.

No petition from a Councillor or member of the public shall be accepted

- (a) which contains abusive, defamatory or offensive language or relates to a specific and identifiable person;
- (b) at the Annual Meeting of the Council, a Special Meeting of the Council, or at any meeting of the Council summoned for the purposes of considering the budget;
- (c) in relation to an individual's particular circumstances;
- (d) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;
- (e) about any matter which has been the subject of an issue raised by a petition or of a decision of Council or the Executive within the previous six months.

No petition from a member of the public shall be accepted:-

- (a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation, or from a staff group, which instead should use the proper procedures, such as through management and trades union representatives; or
- (b) if the petition applies to a planning or licensing application, is a statutory petition (ie petition relating to a change in Council governance), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, as other procedures apply and the petition will not be dealt with under this Scheme. The petition organiser will be informed where this is the case and what steps they should take.

Further Information in relation to e-Petitions

How do I start an e-petition?

On the Active E-Petitions homepage ([link](#)), select the 'Submit a new ePetition' option. You will be prompted to enter a title which the system will automatically check against ePetitions to allow you to see if a similar one has been considered recently.

You will then need to fill in the online form. There are various stages to this, if it is your first petition, you will need to register, by way of entering a validation code of letters / numbers at the bottom of the registration form and validate your registration when you receive an email. The petition will be submitted to the Democratic Support Team, they will check over the petition and contact you if there are any queries. Please note that it may take up to five working days before it is published online. If you are already registered on the system, you just need to type in your user name and password.

You will then need to fill in the details in the boxes on the screen with details of the petition, i.e. what you are asking, a 'call for action'. There is also a space for further supporting details.

A short name is also needed for your petition in order to generate the weblink to the e-petition.

What happens to an e-petition which has been submitted?

Following auto receipt by the system it will be checked over for its validity. You will then be contacted to discuss making the petition live on the website.

How do I sign an active e-petition?

Anyone wishing to sign an e-petition has to click on a link on one of the Active Petitions via the e-petitions homepage.

Unless you are already a user and can log onto the system with your existing user name and password, you will be prompted to register as a new user with your contact details (and, so we can ascertain you are a valid user, enter a validation code of letters / numbers at the bottom of the registration form). As a new user, you will then be requested to validate your account via a link sent to your registered email address before being able to sign the petition. You will only be allowed one signatory per email address to ensure that the process is not abused. Where people share the same email address the second or further signatories are invited to indicate in writing (contact details below) that they support the petition.

If you are not a city resident please use the name and address of your workplace or educational establishment for registration purposes.

Privacy Policy

The details you give us are needed to validate your petitions but will not be published on the website. This is equivalent to the process for a paper petition. On completion of the e-petition, your details will be forwarded to the lead petitioner.

Policy on Recording and Reporting on Public Meetings

Application

This policy applies to all public meetings of Leicester City Council, with the exception of meetings of the Licensing Sub Committees which are held under different meeting Regulations I. The policy does not apply to meetings which aren't public meetings of the local authority, for example education appeal hearings.

Key Principles

- Leicester City Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media as a further means to encourage public interest and engagement.
- In accordance with the Openness of Local Government Bodies Regulations 2014 persons and press attending any meeting of the Council open to the public are allowed to record and/or report all or part of that meeting. This includes filming, audio-recording, photographing or any other means for enabling people not present to see or hear proceedings at a meeting at the same time as it takes place or later. The Council will provide reasonable facilities (such as space to view and hear the meeting, seats and a desk etc) to enable them to do so, as far as is practical.
- The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:
 - ✓ to respect the right of others to view and hear debates without interruption;
 - ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
 - ✓ where filming, to only focus on those people actively participating in the meeting;
 - ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.
- Where objections to being filmed arise (with the exception of the situations described in paragraph 3b below) the Chair of the meeting will operate from the principle that those members of the public who attend a public meeting in order to actively participate should expect to be recorded / reported, whereas those who attend merely to observe should have the right not to be recorded / reported.

- Recording and reporting should not be disruptive to the meeting (such as preventing others viewing and listening to the meeting such as asking people to repeat statements for the purposes of filming, intrusive lighting, excessive noise in setting up or re-siting equipment or moving to areas outside those designated for the public). Acting in a disruptive manner could result in expulsion from the meeting.

Further Guidance

1. The Regulations allow an individual or organisation to report and/ or provide non-verbal commentary on a public meeting making it available to others not present.
2. Individuals or organisations intending to record and/ or report on a public meeting are asked to notify the relevant Democratic Support Officer (as listed on the meeting agenda) in advance of the meeting to ensure that suitable arrangements are in place.
3. If notification of an intention to record / report all or part of a meeting has been received the Chair will make an announcement accordingly at the start of the meeting.
 - a. If a member of the public present indicates that they do not wish to be recorded then the Chair will ask the individual/ organisation to refrain from filming/ audio-recording/ photographing them.
 - b. If a person with known learning disabilities or mental health issues is expected to be speaking at the meeting then there will be a need to ensure that they have given informed consent. If a young person will be speaking at the meeting then parental consent should be sought for them to be filmed / recorded / photographed. The Chair will decide if this has been achieved and if not, request that recording does not take place while they are speaking.
4. Those recording and/ or reporting on public meetings should be aware of and abide by the following points:
 - a. Unless agreed otherwise in advance of the meeting, recording and reporting must take place from the public seating area and should be overt and focused on those speaking at the meeting.
 - b. The use of flash photography or additional lighting is not allowed unless it has been discussed in advance and agreement reached on how it can be done without disruption to the meeting.
5. Individuals and organisations recording a meeting are asked to respect any requests from external contributors/ members of the public to the meeting to suspend recording while they are speaking/ to not record them.
6. Recording is not allowed:
 - a. when the meeting has agreed to formally exclude the press and public due to the nature of business discussed. Filming / recording equipment should not be left in the meeting room during private sessions.

- b. if the meeting has been suspended.
 - c. If the Chair determines that it has not been possible to obtain informed consent from a person with known learning disabilities or mental health issues; or parental consent for a young person speaking (see paragraph 5 above) then any recording of these individuals is not allowed.
7. Oral reporting or oral commentary on a meeting as it takes place is not allowed. Oral commentary should take place outside or after the meeting.
 8. The Council expects that recording will not be edited in a way that could lead to misinterpretation of the proceedings.
 9. Individuals and organisations recording/ reporting on a meeting must respect the law and will be responsible for any allegations of breaches of law which may result from their actions.
 10. The Council allows such reporting/ recording to take place only in accordance with its legal obligations and takes no responsibility for, nor will accept any liabilities for, any filmed/ recorded/ photographed material made by any persons or its subsequent use or publication.

Any queries regarding this policy should initially be directed to John Thorpe, Democratic and Members Support Manager.

Telephone: 0116 454 6351

Email: john.thorpe@leicester.gov.uk

Further guidance is also available in the DCLG publication 'Open and accountable local government', August 2014

PART 6 – MEMBERS’ ALLOWANCES SCHEME

ELECTED MEMBERS’ ALLOWANCE SCHEME 2014/2015

Council, at its meeting on 18 September 2014, agreed a Members’ Allowances Scheme, applicable for the 2014/2015 Municipal Year taking into account the recommendations of the Independent Panel on Members’ Allowances.

The scheme is detailed below and operates from 24 May 2013.

Members should be aware that allowances payable in return for acting as an Elected Member are regarded as the same as salary or wages for the purposes of Income Tax and National Insurance Contributions (NIC), ie income tax and NIC will usually be deductible from such allowances.

1. ALLOWANCES PAID AUTOMATICALLY

(All amounts stated are gross)

(a) Basic Allowance

£9,829 per annum for each Elected Member.

(b) Special Responsibility Allowances

These allowances are banded into four categories, as grouped below. Only **one allowance** is payable within each category except:-

- (i) * The City Mayor’s SRA and the Basic Allowances cover all aspects of work.
- (ii) ** The Deputy City Mayor’s SRA includes Executive Membership

Executive	
* City Mayor	£55,909.00
**Deputy Leader City Mayor	£39,474.50
Assistant Mayors (six)	£16,466.20
Scrutiny	
Chair, Overview Select Committee	£7,761
Vice Chair, Overview Select Committee	£3,880
Chair, Children Young People and Schools Scrutiny Commission	£7,761
Vice Chair, Children Young People and Schools Scrutiny Commission	£3,880
Chair, Health and Wellbeing Scrutiny Commission	£7,761
Vice-Chair, Health and Wellbeing Scrutiny Commission	£3,880

Chair, Neighbourhood Services and Community Involvement Scrutiny Commission	£7,761
Vice Chair, Neighbourhood Services and Community Involvement Scrutiny Commission	£3,880
Chair, Heritage, Culture, Leisure and Sport Scrutiny Commission	£7,761
Vice Chair, Heritage, Culture, Leisure and Sport Scrutiny Commission	£3,880
Chair, Adult Social Care Scrutiny Commission	£7,761
Vice Chair, Adult Social Care Scrutiny Commission	£3,880
Chair, Economic Development, Transport and Tourism Scrutiny Commission	£7,761
Vice Chair, Economic Development, Transport and Tourism Scrutiny Commission	£3,880
Chair, Housing Scrutiny Commission	£7,761
Vice Chair, Housing Scrutiny Commission	£3,880
Regulatory	
Chair, Planning and Development Control	£7,761
Vice Chair, Planning and Development Control	£3,880
Chair, Licensing & Public Safety Committee	£7,761
Vice Chairs, Licensing Committee (two)	£3,880
Audit and Standards	
Chair, Audit & Risk Committee	£5,691
Chair, Standards Committee	£2,768
Political Appointments	
Minority Group Leader	£1,035 per annum plus an additional £259 per member
Majority Group Whip	£7,761

Civic Allowances

These allowances are intended to meet the cost of purchasing a range of requisite clothing and meeting the cost of essential personal hospitality and other expenses associated with being Civic Office holders.

(It is recognised that some items of clothing, for example, equip the recipient over their potentially three years as an Office Holder.)

Lord Mayor	£16,039*
Deputy Lord Mayor	£4,915
High Bailiff	£1,720

*£10,863 of the Lord Mayor's allowance will be provided via allowances, the other £5,176 will be administered by the Democratic & Civic Support Manager with any necessary in-year amendments.

(d) Independent Members and Co-optees

The Council is required to appoint Independent Persons and Independent Members to support the Standards process. There is also a statutory requirement for co-optees to input into the Council's activities from an education perspective. These positions will receive a Special Responsibility Allowance as follows:-

Independent Persons, Standards Committee	£2,000 plus travel expenses
Independent Members, Standards Committee	£492
Co-opted Members of Committees	£492

(e) Travel and Subsistence – Inside the City

£100.39 per month (£1,205 per annum) is payable to each Elected Member. This is intended to cover all travel (including taxis) and subsistence costs for all activities within the City boundary.

2. ALLOWANCES TO BE CLAIMED FOR

(a) Travel and Subsistence - Outside the City

Outside the City of Leicester Members are entitled to claim travel and subsistence in accordance with the details listed below whilst undertaking Approved Council Duties.

Such Approved Duties include:-

- i. Attendance at meetings of Outside Bodies as approved by the Executive/Council or the Group Whips
- ii. Training courses, conferences and seminars in the furtherance of the Councillor's performance of their duties as a Councillor
- iii. Other activities which, in the view of the Director – Delivery, Communications and Political Governance are in the interests of the Council.

- iv. For all claims for travel expenses, tickets, receipts or equivalent travel documents must be provided. The claim must include the reason for the journey.

i) Travel

Public Transport	Paid at the amount of an ordinary fare or any available cheap fares (tickets/receipts required).
Taxi	Where no public transport is reasonably available, the amount of the fare plus any reasonable gratuity paid (receipt required). In other cases the amount of the fare for travel by appropriate transport will be paid. Taxis should only be used in exceptional circumstances. Significant taxi expenditure should be approved in advance by the Group Whip.
Private Transport	Rates payable at the level of the Approved Mileage Allowance Payments (AMAPs) laid down by the Inland Revenue as a tax free “approved amount” and shall be amended in line with any changes made to these amounts as and when they occur.
	Car or Van* 45p per mile for the first 10,000 miles, 25p per mile after that
	Motor Cycle* 24p per mile (all miles)
	Pedal Cycle 20p per mile (all miles)
	An additional 5p per mile will be paid when one or more passengers travel to an approved duty in the same car. The cost of parking fees (including overnight garaging), tolls and ferries can also be claimed.
*A valid VAT receipt for fuel is required for any car/van or motorcycle mileage claims.	
Hired Motor Vehicle (car/light van)	The same rates as if the vehicle were privately owned (where approved by the Council the rate may be increased to an amount not exceeding the cost of hiring) If the Council hires the vehicle the tax free rates are limited to the fuel element as detailed in HMRC guidance.
Travel by Air	Payable provided that the Council agrees that the time saved justifies the fare. The rate of payment will not exceed the ordinary or any cheap fare available, or where no such service is available or in case of an emergency, the fare actually paid by the Member. This must be receipted to be

	tax-free.
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ii) Subsistence Allowance (outside of Leicester)

- The allowance will not apply to a meal which is already provided at no charge or included in a conference/course fee.
- Receipts must be provided (where available a VAT receipt) for audit and reclaim purposes as a condition of the allowance.
- The actual money spent on the meal can be reclaimed up to a maximum allowance (see table below) on production of a receipt.

Meal	Qualifying duty period (inclusive of travelling time)	Rate
Breakfast	3 hours before 11.00 am	£8.00
Lunch	3 hours between 12 noon and 2.00 pm	£10.92
Tea	3 hours including 3.00 pm to 6.00 pm	£4.78
Dinner	3 hours ending after 7.00 pm	£18.72

Tea and dinner allowances will not be paid in respect of the same evening's duties. No claims should be made for alcohol.

iii) Overnight Accommodation and Out of Pocket Expenses

The following rates will apply for overnight absence (room only).

Provincial rate – not to exceed £86

London rate – not to exceed £146

Accommodation should be booked through Member and Civic Support Team.

Out of pocket expenses - maximum amount per night £4.81, maximum amount per week £19.15.

This amount is intended to cover out of pocket expenses whilst representing the Council (e.g. newspapers, telephone calls home, light snacks etc.).

These are only tax free when the Member is required to stay away overnight on Council business.

(b) Childcare and Dependant Carers' Allowance

Allowances for childcare and dependant care are paid as a contribution to costs, rather than a full reimbursement. Allowances paid towards childcare or dependant care costs incurred by an Elected Member are subject to Income Tax and NIC even if the costs are unavoidably incurred as a result of carrying out Council duties. The only exception is the £55 per week voucher scheme outlined below. Allowances can be claimed on the basis set out in Article 7 of the Local Authorities (Members Allowances) (England) Regulations 2003, subject to the following:-

- The maximum hourly rate reimbursed for the independent care of a child under the age of 14 shall be equal to the minimum wage applicable to the age of the carer;
- The maximum hourly rate reimbursed for the professional care of a dependent relative shall be equal to the Council's own hourly rate for a Home Care Assistant;
- There shall be an upper limit of 10 hours carers allowance claimable per Member per week;
- Members must certify that the costs have been actually and necessarily incurred and the allowance shall be paid as a reimbursement of incurred expenditure against receipts;
- The allowance shall not be payable to a member of the claimant's own household, and
- Any dispute regarding entitlement or any allegation of abuse should be referred to the Council's Standards Committee for adjudication.

Members using registered childcare provision may, if they so choose, receive tax free, up to £55 per week of their contribution to childcare by way of vouchers, which will be reimbursed by the Council direct to the childcare provider

A list of authorised meetings is in Appendix 1.

3. MEMBERS' SUPPORT PACKAGE

The main purpose of the Members' Support Package is to increase flexibility for Members and support their work as an Elected Member in a manner which is most appropriate to their personal methods of working and needs.

£ 1,606 (maximum) to be available for the first full year to each elected Councillor following an election.

£ 801 per annum ongoing thereafter for the second to fourth year of a Councillor's term of office.

In the event of a By-Election, the provision will be calculated as follows:-

£ 801 (maximum) set up costs for newly elected Councillor.

£ 801 pro-rata to period of Municipal Year elected as a Councillor.

£ 801 per annum ongoing thereafter for the remainder of the term of office.

The Support Package will cover the follow items:-

- (a) Provision of items for home use, eg.. furniture (such as desk/filing cabinet).
- (b) Maintenance/repair associated with any of the above items.
- (c) Phone Costs – All claims for telephone expenses must be supported by an itemised bill clearly identifying the rental/calls that make up the amount claimed.

Private Landline

Annual amount for equipment and line rental plus annual call allowance (as determined by the Director – Delivery, Communications and Political Governance in consultation with the Group Whip – if a member of a constituted Group).

And/or

Mobile Phone

(i) City Council provided Mobile Phone - Line rental and cost of Council-related call charges

Or

(ii) Private Mobile Phone - Total monthly cost (as determined by the Director – Delivery, Communications and Political Governance in consultation with the Group Whip – if a member of a constituted Group) to cover both line/handset rental and Council-related call charges.

- (d) Broadband line rental up to a maximum of £26 per month. The first £15 will be met by ICT services and the rest through the Member's Support Package.
- (e) ICT equipment and software over and above the standard configuration available to Members.
- (f) Other miscellaneous items which can be demonstrated to assist the Councillor in their role as an Elected Member, subject to prior agreement of the Director – Delivery, Communications and Political Governance
- (g) Purchase of bicycles to use on council business.
- (h) Environmentally friendly items in support of those items included on the approved list.

The Support Package will not cover the following items:-

- i. Travel and Subsistence within the City covered by £1,205 adjunct to Basic Allowance.
- ii. Surgery costs (rental of surgery room and associated publicity material).
- iii. Personal calls made on Council provided mobiles. These will be deducted from monthly allowances, following identification of such calls by the Member concerned.
- iv. Computer equipment which does not meet the Council's approved specification.
- v. Facilities located centrally in the Members' Area at City Hall i.e. copier, etc.
- vi. Consumables provided centrally from within Member and Civic Support Team e.g. paper, envelopes.
- vii. Adaptations required within the provisions of the Disability Discrimination Act to enable a Member to fulfil their duties. These will be funded from sources other than the individual Member's Support Package allocation.

Notes Relating to the Support Package:

- i. All items **must** be supplied through City Council approved procurement processes arranged through Member and Civic Support Team.
- ii. All items supplied through the Support Package are for the sole use of the Councillor for council- related business and are non transferrable. They remain the property of Leicester City Council and all items must be returned within one calendar month when the Councillor ceases to be a Councillor.
- iii. Once a Councillor ceases to be a Councillor, all phone calls made on council- owned phone equipment are the personal responsibility of that ex-Councillor and will be billed accordingly.
- iv. All items supplied through this process must facilitate Members in their role as an Elected Member. Legislation prohibits its use for party political purposes.
- v. Members should note that the purchase of certain items through this fund, such as clothing, would be taxable. Further advice on specific items can be obtained via Member and Civic Support Team.

Administration of Support Package.

- i. Each Member will have a first year Support Package allocation of £1,606 in the year following an election and thereafter each Member will have £ 801 'Support Package Account' at the beginning of each financial year. These will be administered by Member and Civic Support Team. The 'account' will be debited as each item is paid for (directly by the City Council). Members will be issued with a statement of account.
- ii. All items supplied will be in liaison with Member and Civic Support Team (see note above regarding procurement to make maximum use of the Council's purchasing power). Items will be net of VAT as long as the Council purchases the items or VAT receipts are submitted.
- iii. The relevant Group Whip (if a Member of a constituted Group) will monitor the Support Package accounts on a regular basis.
- iv. Capital costs may be spread over the term of the Council, with underspends and overspends carried forward year to year.

Personal Computers and Printers

Standard specification ICT equipment with relevant software and printers may be supplied to all Members through Member and Civic Support Team. ICT equipment/software, etc. over and above the standard specification supplied through the Council must be procured through ICT Services and must be in accordance with the provisions contained in the Members' ICT User's Agreement.

4. MISCONDUCT/WITHHOLDING OF ALLOWANCES

In the event of a Member suspension/partial suspension, the Member's allowances will be withheld in full or in part in accordance with the duration of the suspension.

5. PAYMENT ARRANGEMENTS

- i. All automatically paid allowances (as outlined in the first section) will be paid in twelve equal monthly instalments via Payroll system
- ii. Where a Member becomes or ceases to be entitled to allowances within a calendar month, entitlement will be calculated on a pro rata basis. Entitlement will commence three days after Election or agreement.
- iii. Payment of travel and subsistence for expenditure outside the City will be made in arrears on the basis of a claim form being submitted and signed by Members within three months of the event claimed for event taking place. (The payment of claims made outside this period will be reviewed in accordance with the provisions of the Scheme).
- iv. Payment of Childcare and Dependent Carer's Allowances will be made in arrears on the basis of a claim form being submitted and signed by members within three months of the event claimed for taking place.
- v. Allowance claims over three months old will only be paid in **exceptional circumstances** such as long-term illness. Such payments will be made in consultation with the relevant Group Whip (if a member of a constituted Group).
- vi. Where any overpayments occur the Member will be notified and the amount will be recovered from the next monthly payment (unless instalments are requested by the Member for accounts over £50).
- vii. A Member may decide not to claim any element of an automatic allowance (in full or in part) of their Allowance and must notify the Director – Delivery, Communications and Political Governance in writing of their intention.

Appendix 1

Authorised meetings for which Childcare and Dependant's Allowances can be claimed

- a) Meetings of the City Council including Executive, Scrutiny, Regulatory Committees, Area Committees (and any subsequent related arrangements) and Full Council, and any sub-committees relating to these.
- b) Meetings of relevant bodies where the Member is appointed by or on behalf of the Council, e.g. outside bodies appointed through Whips' Meetings, school governors where the Member is appointed as the LEA governor in their capacity as a councillor (not when attending as a parent governor)
- c) Working Parties or Panels of Members properly convened by the Director – Delivery, Communications and Political Governance as a result of a decision of the relevant body of the Council
- d) Formal briefing meetings or conferences of members convened by the Director – Delivery, Communications and Political Governance in relation to the proceedings of meetings or functions of a relevant body of the Council in accordance with arrangements approved by that body, e.g. Scrutiny Task Group Meetings.
- e) Meetings for the appointments of senior officers.
- f) Joint meetings with other authorities, provided that members from at least two political groups have been invited.
- g) Meetings of any group of authorities of which the City Council is a member.
- h) Performing a duty under Section 135 of the Local Government Act 1972 which requires members to be present while tender documents are opened
- i) Inspections and tours of City Council and other establishments and venues, approved in advance by or on behalf of the relevant body of the Council.
- (j) Official deputations to or meetings with government departments, statutory authorities or other local authorities.
- (k) Attendance by Members appointed for that purpose, at a meeting properly convened on behalf of a public authority or government department to discuss issues relating to the work of the City Council
- (l) Meetings convened by the Director – Delivery, Communications and Political Governance between group whips or their nominees
- (m) Attendance by members at meetings of City Council bodies, or site visits when requested specifically by the body concerned

- (n) General information visits or tours having been previously approved by or on behalf of the relevant body
- (o) Attendance at conferences where these are relevant to the Member's duties
- (p) Attendance at other meetings or other duties approved by the authority for the purpose or in connection with the discharge of the functions of the authority or any of its committees or sub-committees) This includes briefing meetings, Joint Action Groups, Tenants' Association meetings etc.
- (q) Performing a duty in connection with arrangements made the Council the attendance of pupils at any school approved for the purposed of section 342 of the Education Act 1996 (approval on non-maintained special schools).

Annex 2 – Summary of Allowances 2014/2015

Members may choose not to claim any element of their Allowances.

	2014/15
Basic Allowance	£9,829
Travel & Subsistence	£1,205
Executive	
City Mayor	£55,909
Deputy Leader City Mayor	£39,474.50
Assistant Mayors	£16,466.20
Scrutiny	
Chair, Overview Select Committee	£7,761
Vice Chair, Overview Select Committee	£3,880
Chair, Children Young People and Schools Scrutiny Commission	£7,761
Vice Chair, Children Young People and Schools Scrutiny Commission	£3,880
Chair, Health and Well Being Scrutiny Commission	£7,761
Vice-Chair, Health and Well Being Scrutiny Commission	£3,880
Chair, Neighbourhood Services and Community Involvement Scrutiny Commission	£7,761
Vice Chair, Neighbourhood Services and Community Involvement Scrutiny Commission	£3,880
Chair, Heritage, Culture, Leisure and Sport Scrutiny Commission	£7,761
Vice Chair, Heritage, Culture, Leisure and Sport Scrutiny Commission	£3,880
Chair, Adult Social Care Scrutiny Commission	£7,761
Vice Chair, Adult Social Care Scrutiny Commission	£3,880
Chair, Economic Development, Transport and Tourism Scrutiny Commission	£7,761
Vice Chair, Economic Development, Transport and Tourism Scrutiny Commission	£3,880
Chair, Housing Scrutiny Commission	£7,761
Vice Chair, Housing Scrutiny Commission	£3,880
Regulatory Committees	
Chair, Planning and Development Control	£7,761
Vice Chair, Planning and Development Control	£3,880
Chair, Licensing	£7,761
Vice Chairs, Licensing	£3,880
Audit and Standards	
Chair, Audit and Risk Committee	£5,691
Chair, Standards Committee	£2,768
Political Appointments	
Majority Group Whip	£7,761

Minority Group Leader	£1,035 plus additional £259 per member
Civic Allowances	
Lord Mayor	£16,039*
*Amount to be administered by Democratic and Civic Support Manager remainder provided via allowances	£5,176
Deputy Lord Mayor	£4,915
High Bailiff	£1,720
Independent Members and Co-optees	
Independent Persons, Standards Committee	£2,000 plus travel expenses
Independent Members, Standards Committee	£492
Co-opted Members of Committees	£492
Support Package	
Available for the first full year to each elected Councillor following an election (maximum).	£1,606
On-going thereafter per annum for the second to fourth year of a Councillor's term of office.	£801

PART 7 – MANAGEMENT STRUCTURE

Available at:

<http://www.leicester.gov.uk/your-council-services/council-and-democracy/senior-management-team/>