

NON-CONFIDENTIAL



Borough of Tamworth

9 May 2013

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **THURSDAY, 16TH MAY, 2013** at 6.00 pm in the **COUNCIL CHAMBER - MARMION HOUSE**, for the transaction of the following business:-

AGENDA

NON CONFIDENTIAL

9 Review of the Constitution and Scheme of Delegation (Pages 1 - 222)

(Report of the Leader of the Council and Solicitor to the Council and Monitoring Officer)

Yours faithfully

A handwritten signature in black ink, appearing to read 'A. Oost', enclosed in a circular scribble.

CHIEF EXECUTIVE

People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail committees@tamworth.gov.uk preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.

Marmion House
Lichfield Street
Tamworth

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TAMWORTH BOROUGH COUNCIL



CONSTITUTION

10th Edition
As approved at the meeting of the Council on the [17th May 2012]

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1 Part 1 - Summary and Explanation

Summary and Explanation

Tamworth Borough Council is the democratically elected authority for Tamworth. The Council provides community leadership to develop Tamworth and enhance the experiences of those who live here, work here and visit the Borough. It has statutory responsibility for the provision of a range of services, some of which are delivered directly by the Council, others are delivered on its behalf by a range of organisations and partners. The Council works in partnership with other organisations such as Staffordshire County Council and other District Councils, the Police, Health bodies and the voluntary and community sector.

The Council's Constitution

Tamworth Borough Council's constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to provide clear transparent and effective community leadership. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The executive (Article 7).
- Regulatory committees (Article 8).
- The Audit and Governance Committee (Article 9).
- Nominations Committee (Article 10).
- Area Committees (Article 11).
- Joint Arrangements (Article 12).
- Officers (Article 13).
- Decision making (Article 14).
- Finance, contracts and legal matters (Article 15).
- Review and revision of the Constitution (Article 16).
- Suspension, interpretation and publication of the Constitution (Article 17).

How the Council operates

The Council is composed of 30 councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. Councillors receive training and advice on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council, and members of the various committees and sub committees, receives reports from the Leader and its scrutiny committees, answers questions from the public and holds an annual state of Tamworth debate.

1.1 How Decisions are made

The executive is the part of the Council which is responsible for most day-to-day decisions. The executive (also referred to in this constitution as the cabinet) is made up of the Leader, who is elected by the Council, and a cabinet of a maximum of nine councillors whom s/he appoints.

When major decisions are to be discussed or made, these are published in the executive's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

There are some decisions, mostly those of a regulatory nature such as planning and licensing, which the law does not allow the executive to make. These are made by committees appointed by the full Council.

In many cases decisions are delegated by members, both from the executive and from the Council committees, to officers. The Scheme of Delegation at Part 3 gives details of the delegations which are in force.

1.2 Overview and Scrutiny

There are two overview and scrutiny committees which hold the Executive to account and support the work of the Executive and the performance delivery of the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the executive. They can 'call-in' a decision which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

The Council also has other committees such as an Audit and Governance Committee and a Nominations Committee. Non councillors may be co-opted onto these committees.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources

wisely. A code of practice governs the relationships between officers and members of the council.

Citizens' Rights

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a change back to a Committee system or for an elected Mayor;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees;
- find out, from the executive's forward plan, what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- attend meetings of the executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and executive;
- complain to the Council through the comments compliment and complaints procedure;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the main switchboard on 01827 709709.

2 Part 2 - Articles of the Constitution

2.1 Article 1 – The Constitution

2.1.1 Powers of the Council

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

2.1.2 The Constitution

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

2.1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses 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 and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

2.1.4 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 14.

2.2 Article 2 – Members of the Council

2.2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 30 members, otherwise called councillors. The Borough is divided into 10 wards and 3 councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the borough or those living or working there will be eligible to hold the office of councillor.

2.2.2 Election and terms of councillors

- (a) The ordinary election of a third of all councillors will be held on the first Thursday in May in each year beginning in 2003 except that in 2005 and every fourth year after there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.
- (b) The overriding duty of Councillors is to the whole community of the Borough, but they have a special responsibility to each one of their constituents. Councillors are democratically accountable to residents of their ward.

2.2.3 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
 - (v) be involved in decision-making;
 - (vi) be available to represent the Council on other bodies;
 - (vii) maintain the highest standards of conduct and ethics; and

- (viii) have the power to refer to an overview and scrutiny committee by inclusion in the agenda for discussion any local government matters which is relevant to the functions of the committee.

(b) **Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) Members of overview and scrutiny committees or a sub-committee of such a committee may refer for inclusion in the agenda for discussion by the committee any matter which is relevant to the functions of the committee.
- (v) A councillor who is not a member of an overview and scrutiny committee may refer for inclusion on the agenda for discussion at that committee any local government matter which is relevant to the functions of the committee.

2.2.4 **Conduct**

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

2.2.5 **Allowances**

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

2.3 **Article 3 – Citizens and the Council**

2.3.1 **Citizens’ rights**

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

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and to request a referendum for an elected Mayor form of Constitution. Citizens may request a councillor to present a petition to the Council on their behalf and to receive a response from the Council.

- (b) **Information.** Citizens have the right to:
- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the cabinet when key decisions are being considered;
 - (iii) find out from the Forward Plan what key decisions will be taken by the cabinet and when;
 - (iv) see reports and background papers, unless these contain confidential or exempt information and any records of decisions made by the Council and the cabinet
 - (v) inspect the Council's accounts and make their views known to the external auditor; and
 - (vi) seek information held by the Council under the Freedom of Information Act 2000.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
- (i) the Council itself under its comments compliments and complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Council about a breach of the Councillor's Code of Conduct.

2.3.2 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

2.4 Article 4 – The Full Council

2.4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Tamworth Strategic Partnership;
 - Community Safety Plan;
 - Plans and strategies which together comprise the Local Plan;
 - The Healthier Housing Strategy;

- The Housing Revenue Account Business Plan and Investment.
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

2.4.2 **Functions of the full Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them (except where the appointment to a committee is required to give effect to the wishes of a political group); and ensuring that members are appointed to two committees (one of which shall not include the Budget Review Joint Scrutiny Committee; except for executive members who are appointed to one committee
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman, Freeman, or freedom of the borough;

- (i) confirming the appointment or dismissal of the head of paid service; Monitoring Officer and s151 Officer;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) approving the Councils Code of Conduct;
- (l) approving the Senior Officer Pay Scheme;
- (m) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- (n) all other matters which, by law, must be reserved to Council.

2.4.3 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

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

2.4.4 **Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

2.5 **Article 5 – Chairing the Council**

2.5.1 **Role and function of the Mayor**

The Mayor and in their absence, the Deputy Mayor will have the following roles and functions:

The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) 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

members who are not on the executive are able to hold the executive to account;

- (d) to promote public involvement in the Council's activities;
- (e) to be the conscience of the Council; and
- (f) to attend such civic and ceremonial functions as the Council and s/he determine appropriate.

2.6 Article 6 – Overview and Scrutiny Committees

2.6.1 Terms of reference

The Council will appoint the overview and scrutiny committees and sub-committees set out in the left hand column of the table below to discharge the functions conferred by sections 21 and 21A of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table. Where one political party has an overall majority of seats, the membership of the committees or sub-committees will be as set out in the left-hand column of the table.

Committee	Primary Scope
<p>Aspire and Prosper Scrutiny</p> <p>(The Committee shall comprise 9 members of the Council)</p>	<p>To provide effective scrutiny of the achievement of the Council's Strategic Priority 1 – "To Aspire and Prosper in Tamworth" by scrutinising the performance of the Cabinet in securing the primary outcome of creating and sustaining a thriving local economy and making Tamworth a more aspirational and competitive place to do business by:-</p> <ul style="list-style-type: none"> • Raising the aspiration and attainment levels of young people; • The creation of opportunities for business growth through developing and using skills and talent; • Promoting private sector growth and the creation of quality employment locally; • The branding and marketing of "Tamworth" as a great place to "live life to the full"; • The creation of physical and technological infrastructure necessary to support the achievement of this strategic priority. <p>To undertake such other scrutiny activities as may be required in relation to the performance of the Council, its governance, financial management and discharge of statutory functions.</p>
<p>Healthier and Safer Scrutiny</p> <p>(The Committee shall comprise nine members of the Council and one co-</p>	<p>To provide effective scrutiny of the achievement of the Council's Strategic Priority 2 – "To be healthier and safer in Tamworth" in securing the</p>

<p>opted member with voting rights being a member nominated by Staffordshire County Council)</p>	<p>primary outcome of creating a safe environment in which local people can reach their full potential and live longer, healthier lives by scrutinising the performance of the Cabinet in:-</p> <ul style="list-style-type: none"> • Addressing the causes of poor health in children and young people; • Improving the health and well being of older people by supporting them to live active, independent lives; • Reducing the harm and wider consequences of alcohol abuse on individuals, families and society; • Implementing 'Total Place' solutions to tackling crime and ASB in designated localities; • Developing innovative early interventions to tackle youth crime and ASB; • Creating an integrated approach to protecting those most vulnerable in our local communities. <p>To review and scrutinise the performance and functions of other public bodies, statutory undertakers or other such organisations, including voluntary and not for profit institutions, who provide or facilitate the provision of public services within the Borough.</p> <p>The Committee shall review and scrutinise matters relating to the planning, provision and operation of health services in the area of the Tamworth local authority aimed at improving the health of the people in Tamworth. The Committee would scrutinise the role of the Councils, together with that of Social Services, the voluntary sector, the Clinical Commissioning Group and other National Health Service providers for each District Council.</p> <p>To make reports and recommendations on any matter so reviewed or scrutinised in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (Statutory Instrument 2013 No. 218).</p> <p>To aid partnership working, the Committee will have the ability to co-opt partners. This would include representatives from the Health Bodies Social Services, the voluntary sector and other partner organisations.</p>
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	<p>The Committee shall act as the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006 and may co-opt additional members subject to the Crime and Disorder Overview and Scrutiny) Regulations 2009.</p> <p>The Committee may make a report or recommendation to the Council with respect to any matter which is a local crime and disorder matter.</p> <p>The Committee shall undertake a review annually of crime and ASB issues in Tamworth.</p> <p>Any member of the Council who is not a member of the Committee may refer a local crime and disorder matter to the Committee by including the matter on the agenda for discussion.</p>
<p>Budget Review Joint Scrutiny Committee</p> <p>The Committees membership includes all non executive members of the Council</p>	<p>The Committee meets up to twice a year to consider the budget proposals being put forward by the executive and may make comments and recommendations back to the executive on their budget proposals.</p>
<p>For All Committees</p>	<p>All Committees will consider the following matters as they carry out their primary functions</p> <ul style="list-style-type: none"> • Policy Development • Service Delivery & Performance • Use of technology to ensure access and equality • Use of Corporate assets • Finance

2.6.2 General role

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

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions including consideration at each meeting of the Forward Plan;
- (b) prepare an annual scrutiny work plan covering two successive periods of six months and to make reports and/or recommendations bi-annually to the full Council and/or the executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- (c) liaise regularly with each other to ensure that there is no duplication between them in respect of scrutiny and review activity

- (d) consider any matter affecting the area or its inhabitants; and
- (e) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any policy or area committees.
- (f) Appoint Task and Finish Groups as and when required with no more than two operating at any one time. Normally the Chairman or Vice-Chairman of the Committee would Chair these groups and there would be an expectation that these groups would co-opt external expertise.

2.6.3 Specific functions

- (a) Policy development and review. Overview and scrutiny committees and sub-committees may:
 - (i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question members of the executive and committees and chief officers about their views on issues and proposals affecting the area and receive a reply/progress statement from the responsible body or member within 3 calendar months, relating to any recommendations accepted by Full Council or Cabinet which have been referred from the scrutiny process; and
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
 - (vi) Arrange for or carry out best value reviews.
- (b) **Scrutiny.** Overview and scrutiny committees and sub-committees may:
 - (i) review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

- (iii) question members of the executive and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the executive and 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 overview and scrutiny committee and local people about their activities and performance; and
 - (vi) question and gather evidence from any person with their consent.
- (c) **Finance.** Overview and scrutiny committees and sub-committees may exercise overall responsibility for the finances made available to them.
 - (d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
 - (e) **Officers.** Overview and scrutiny committees and sub-committees may exercise overall responsibility for the work programme of the officers employed to support their work.

2.6.4 **Proceedings of overview and scrutiny committees and sub-committees**

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

2.7 **Article 7 – The Executive**

2.7.1 **Role**

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

2.7.2 **Form and composition**

The executive will consist of the executive leader together with not more than nine councillors appointed to the executive by the executive leader.

2.7.3 **Leader**

The Leader will be a councillor elected to the position of Leader by the Council at the Annual Council meeting. The Leader will hold office from

the date s/he is elected as leader until the next annual Council meeting or until:

- (a) s/he resigns from the office; or
- (b) s/he is removed from office by resolution of the Council; or
- (c) s/he is disqualified from being a councillor

2.7.4 The leader will

- (a) Determine the size of the executive
- (b) Appoint members of the executive
- (c) Allocate portfolio areas to members of the executive
- (d) Remove and replace members of the executive
- (e) Appoint and replace member champions

2.7.5 Other executive members

The Leader will nominate one member of the executive as a Deputy Leader to exercise the powers of the Leader when the Leader is unable to act or in the event of the office of Leader being vacant.

The Deputy Leader will hold office until the end of the Leader's term of office unless removed from office by the Leader or ceases to hold office as provided in this article.

The Leader shall give notice in writing to the Chief Executive of appointments made of the Deputy Leader and other executive members.

The Deputy Leader and other executive members shall hold office until:

- (a) they resign from office; or
- (b) they are disqualified from being councillors; or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

2.7.6 Proceedings of the executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

2.7.7 Responsibility for functions

The Leader will inform the Chief Executive which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions and the Monitoring Officer will maintain the list in Part 3 of this Constitution.

2.7.8 The executive may appoint a committee or committees, including appointment of the Chairman, which committees may discharge executive functions.

2.7.9 **Member Champions**

The Leader may at the Annual meeting of the Council or such other time as s/he decides, appoint members to act as champions in such areas as he deems appropriate.

2.7.10 **Champions**

A champion is a Member who will champion an issue on behalf of the Council, as appointed by the Leader of the Council. Examples are issues like heritage, youth, sports, housing, business, town centre. This is not exhaustive but is an example of issues to champion.

Champions are expected to become very knowledgeable on their issue and report to Council cabinet, and relevant committees on their subject as required

They have no authority to decide Council actions, policy or direct to staff to act on their issue.

All policy and decision making authority is the exclusive role of the Executive.

A champion cannot be a Tamworth Borough Council Executive member, committee chairman, vice chairman, Deputy Mayor or Mayor / or in receipt of a SRA.

A champion will -

Act as a lead person to gather, collect and research an issue on behalf of the Executive

Represent the Council, if authorised by the cabinet, at relevant internal or external events and or meetings

Engage external partners and agencies on the issue if authorised by the Executive.

Engage the public on the issue if authorised by the Executive.

Act as a project spokesperson or council representative on a body group, such as youth council, if required by the Executive.

Engage external agencies in the course of researching or investigating an issue or subject

2.8 **Article 8 – Regulatory Committees**

2.8.1 **Regulatory Committees**

The council will appoint such regulatory Committees as it considers necessary and appropriate from time to time to discharge non-executive functions. The committees to be appointed and their detailed terms and references are set out in Part 3 of this Constitution (Responsibility of Functions).

2.9 **Article 9 – Audit & Governance Committee**

2.9.1 **Audit & Governance Committee**

The Council meeting will establish an Audit & Governance Committee.

2.9.2 **Composition**

- (a) **Membership.** The Audit & Governance Committee will be composed of at least:
 - (i) seven councillors other than a member of the Executive or the Chairman of any Scrutiny Committee
- (b) **Independent members.** The Committee may co-opt up to two independent (non-elected) non-voting persons as and when it deems appropriate, for a period or periods it may determine.
- (c) **Chairing the Committee.** The Chairman and Vice-Chairman will be appointed in accordance with Council Procedure Rules.

2.9.3 **Role and Function**

The Audit & Governance Committee will have the following roles and functions:

- (a) **Audit Activity**
 - (i) Receive, but not direct, internal audit's strategy and audit plan
 - (ii) Consider reports dealing with the management and performance of Internal Audit
 - (iii) Consider the head of Internal Audit's annual report and opinion, and the level of assurance Internal Audit can give over the Council's corporate governance arrangements.
 - (iv) Consider periodic reports from Internal Audit on the main issues arising from their work and "high priority" recommendations not implemented within a reasonable timescale, and seek assurance that action has been taken where necessary.
 - (v) Consider the final external audit Annual Audit and Inspection letter and any other relevant reports to "those charged with governance".

(b) **Regulatory Framework**

- (i) Maintain an overview of the Council's Constitution, including Contract Standing Orders, Financial Regulations and Codes of Conduct.
- (ii) Consider the internal control environment and the level of assurance that may be given as to its effectiveness, to include the review of the Statement on Internal Control and the recommendation to the Council of its adoption.
- (iii) Satisfy itself that the authority's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it.
- (iv) Monitor the effectiveness of the authority's risk management arrangements, including the actions taken to manage risks and to receive regular reports on risk management.
- (v) Monitor the effective development and operation of the corporate governance framework in the Council and to recommend to the Cabinet or the Council, as appropriate, the actions necessary to ensure compliance with best practice.
- (vi) Monitor the effectiveness of the Council's policies and arrangements for anti-fraud and corruption and whistle-blowing, complaints handling, RIPA and Ombudsman investigations.

(c) **Accounts**

- (i) Approve the annual statement of accounts, external auditor's opinion and reports to members and monitor management action in response to the issues raised by external audit.

(d) **Reports to Council**

- (i) Reports in the form of Minutes detailing action taken by the Committee and recommendations will be submitted to Council.
- (ii) Delegated Powers
- (iii) The Committee is empowered to deal with the functions detailed above.

(e) **Standards of Conduct**

- (i) This Committee shall exercise all the functions of the Council relating to Codes of Conduct as provided in the Localism Act 2011 except for those functions which under Chapter 7 of the Localism Act 2011 may only be exercised by the full Council.

2.10 **Article 10 – Nominations Committee**

2.10.1 The Council will establish a standing committee of five members to:

- (a) Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of the Council but who are not at that time members of the Council.
- (b) Consider nominations to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freemen or honorary freewomen of the Borough of Tamworth persons of distinction and persons who have, in the opinion of the Council, rendered eminent services to the Borough.

The Committee shall be attended by the Monitoring Officer or the Deputy Monitoring Officer.

2.10.2 **Composition**

- (a) **Membership.** The nominations committee will be composed of at least:
 - (i) five councillors
 - (ii) one person who is not a councillor or an officer of the council (“Independent members”).
- (b) **Chairing the Committee.** The Chairman and Vice-Chairman will be appointed in accordance with Council Procedure Rules.
- (c) **Independent members.** Independent members will be entitled to vote at meetings.

2.10.3 **Role and Function**

The Nominations Committee will have the following roles and functions:

- (a) Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council.
- (b) Consider nominations to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freemen or honorary freewomen of the Borough of Tamworth persons who are of distinction and who have, in the opinion of the Council, rendered eminent services to the Borough.
- (c) Maintain a publicly accessible application process for the two above honours
- (d) Any approved applications are referred to Full Council for Full Council approval.

- (e) Act as a sponsor to a new application, make referral to, or support an existing application that nominates a Tamworth resident to any outside bodies' awards or recognition scheme.
- (f) Seek nominations from the Tamworth public, persons worthy of public recognition for their service or work for the Borough of Tamworth.

2.11 **Article 11 – Area Committees and Forums**

2.11.1 **Area Committees and Forums**

The Council may appoint area committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

2.12 **Article 12 - Joint Arrangements**

2.12.1 **Arrangements to promote well being**

The Council, in respect of non executive functions, and the executive in respect of executive functions and in order to promote the economic, social or environmental well-being of its area or to carry out activities falling within its powers under the General Power of Competence 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.

Subject, in all cases, to compliance with the statutory requirements.

2.12.2 **Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below the executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the Council as a whole.
- (d) The executive may appoint members to a Joint Committee from outside the executive in the following circumstances:

- (i) the Joint Committee has functions for only part of the authority and that area is smaller than two fifth of the authority by areas or population. In such cases the executive may appoint to the Joint Committee any Councillor who is a member for a ward which is wholly or partly contained within the area;
 - (ii) the Joint Committee is discharging a function in relation to five or more authorities;
 - (iii) the function which the Joint Committee is discharging is a function which is required by statute to be discharged by a Joint Committee;
 - (iv) political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including delegations to Joint Committees will be found in Part 3 of this Constitution.

2.12.3 **Access to information**

The Access to Information Rules in Part 4 of this Constitution will apply.

2.12.4 **Delegation to and from other local authorities**

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

2.12.5 **Contracting out**

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

2.13 **Article 13 – Officers**

2.13.1 **Management structure**

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

Post
Chief Executive

Executive Director – Corporate Services
Solicitor to the Council & Monitoring Officer

Director – Transformation Corporate Performance
Director – Housing & Health
Director – Assets & Environment
Director – Communities, Planning & Partnerships
Director – Finance
Director – Technology and Corporate Programmes

- (c) **Head of paid service, monitoring officer and chief financial officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Solicitor to the Council & Monitoring Officer	Monitoring Officer
Executive Director – Corporate Services	Chief Finance Officer

Such posts will have the functions described in Article 12.02–12.04 below.

- (d) **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

2.13.2 Functions of the head of paid service

- (a) **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

2.13.3 Functions of the monitoring officer (to be exercised after consultation with the Head of Paid Service)

- (a) **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure

that it is widely available for consultation by members, staff and the public.

- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the executive in relation to an executive function if s/he 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 in accordance with s5 of the Local Government and Housing Act 1989
- (c) **Supporting the Audit & Governance Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the relevant committee.
- (d) **Conducting investigations or other action.** The monitoring officer will conduct investigations or take other action into matters referred by the Audit & Governance Committee in accordance with the Complaints Procedure.
- (e) **Proper officer for access to information.** The monitoring officer 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 and will advise upon issues relating to confidential and exempt information
- (f) **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (g) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer. or the Head of Paid Service

2.13.4 **Functions of the Chief Finance Officer (to be exercised after consultation with the Head of Paid Service)**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the Chief Finance Officer will report to the full Council or to the executive in relation to an executive function – and the Council's external auditor if s/he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or

deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, 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 Chief Finance Officer will provide financial information to the media, members of the public and the community.

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

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

2.13.6 **Conduct**

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

2.13.7 **Employment**

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

2.14 **Article 14 – Decision Making**

2.14.1 **Responsibility for decision making**

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

2.14.2 **Principles of decision making**

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome) and having regard to the Council's Diversity and Equality Scheme;
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

2.14.3 **Types of decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions.
 - (i) Key decision means any decision to spend or forego income or raise additional income exceeding £50,000 in one financial year or any decision that affects two or more wards.
 - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

2.14.4 **Decision making by the full Council**

Subject to Article 13.08, the Council at their meetings will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

2.14.5 **Decision making by the executive**

Subject to Article 13.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

2.14.6 **Decision making by overview and scrutiny committees**

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

2.14.7 **Decision making by other committees and sub-committees established by the Council**

Subject to Article 12.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

2.14.8 **Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights and the duties placed on the Council under the Equality Act 2010.

2.15 **Article 15 – Finance, Contracts and Legal Matters**

2.15.1 **Financial management**

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

2.15.2 **Contracts**

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

2.15.3 **Legal proceedings**

The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

2.15.4 **Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000 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 two officers of the authority or made under the common seal of the council attested by at least one officer.

2.15.5 **Common Seal of the Council**

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

2.16 Article 16 – Review and Revision of the Constitution

2.16.1 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of constitution by monitoring officer

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

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

2.16.2 Changes to the Constitution

Approval. Any changes to the constitution must be approved by the full Council after consideration of the proposal by the Monitoring Officer and the Audit and Governance Committee (as necessary). Changes to factual references and those required as a result of legislative changes may be made by the Monitoring Officer.

2.17 Article 17 – Suspension, Interpretation and Publication of the Constitution

2.17.1 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with this Article:

The Council's Procedure Rules to the extent provided in paragraph 23 (Part D of the Constitution).

2.17.2 Interpretation

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

2.17.3 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Solicitor to the Council will ensure that copies are published on the Council's web site and made 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.

2.18 Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

- 2.18.1 Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
- 2.18.2 Article 7 (The Executive) and the Executive Procedure Rules;
- 2.18.3 Article 11 (Area Committees) where the Area Committee is exercising Executive functions;
- 2.18.4 Article 12 (Joint Committee) where the Joint committee is exercising Executive functions;
- 2.18.5 Article 13 (Decision making) and the Access to Information Procedure Rules;
- 2.18.6 Part 3 (Responsibility for Functions).

3 Part 3 - Responsibility for Functions

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended or replaced) specify which functions are not the responsibility of the executive, functions which may be the responsibility of the executive (local choice functions) and functions which are partly the responsibility of the executive and partly the Council.

3.1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The following local choice functions shall be the responsibility of the executive:-

Appointments under paragraph 19 of Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended or replaced).

All other local choice functions shall be the responsibility of the Council but may be delegated to committees.

3.2 RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Membership	Functions	Delegation of functions
Planning	Ten members	Planning and conservation	Corporate Director – Community and Environment
		Functions conferred on the Council relating to town and country planning, development control, highways and environmental protection as specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended): Schedule 1 Part A 1-27 Schedule 1 Part B 47-55, Part I 1-34, 46-47 Schedule 2 – 10-12, 14-15 and 16,17 and 18 (except the powers reserved to the Cabinet)	In accordance with any arrangements approved from time to time by the Planning Committee
Licensing Committee	Fifteen Members	Those functions conferred on the Council in relation to licensing (including liquor licensing), registration, health & safety as contained in	

		<p>Schedule 1, Part B (1-46, 56-70), Part C (whole), Part I (42) of the Local Government (Functions & Responsibilities) (England) Regulations 2000 (as amended)</p> <p>To determine matters under the Licensing Act 2003 and the Gambling Act 2005</p>	
<p>Appointments and Staffing Committee</p>	<p>Five Members, of which one must be a member of the Executive</p>	<p>To recommend to full Council the appointment or dismissal of the Head of Paid Service and Posts designated as Chief Officer (including any such Officers on Chief Officer conditions), including the Monitoring Officer and 5151 Officer.</p> <p>To determine the terms and conditions on which all staff hold office including procedures dealing with grievance and dismissal.</p> <p>In respect of Chief Officers and Officers appointed on Chief Officer conditions, to be the appeal Committee for appeals against decisions made on matters of grievance and discipline by an Investigating Committee or the Chief Officer Conduct Committee.</p>	
<p>Chief Officer Conduct Committee</p>	<p>Five Members of which one must be a member of the Executive</p>	<p>To act as the (Investigating Committee or the) first stage Committee to hear the case against an employee appointed in</p>	

		<p>accordance with Joint Negotiating Committee terms for Chief Executives or Chief Officers.</p> <p>The Committee will not act as an appellate Committee as such provisions are preserved to the Appointment & Staffing Committee.</p>	
Audit & Governance Committee	Seven Members	<p>Those functions conferred on the Council in relation to Audit and Governance matters including Audit Activity, Regulatory Framework and Accounts</p> <p>To advise the council on the adoption or revision of its Code of Conduct</p> <p>To monitor and advise the council about the operation of its Code of Conduct in the light of best practice and in terms of the Localism Act 2011</p> <p>Assistance to members and co-opted members of the authority.</p> <p>To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</p>	

		<p>1) Other functions</p> <p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Localism Act 2011</p> <p>The Council's complaints procedure.</p>	
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3.3 RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Executive functions shall subject to the provisions of Section 9E of the Local Government Act 2000 (as amended) be the responsibility of the Leader of the Council who may discharge executive functions or arrange for their discharge by the executive, by another member of the executive, by a committee of the executive or by an officer of the Council.

The Leader shall as required by Article 7.06 maintain a list of delegations of functions which shall form part of this constitution.

Who is responsible	Responsibilities (provided the decision is within any guidance or direction from the Leader and/or the Cabinet)	Onward limits on delegations (provided the decision is within any guidance or direction from the Leader and/or the Cabinet and/or the Portfolio Holder)
Leader	Corporate Assessments Engagement Overview Financial Planning Performance Management Member Development Strategic Overview Local Strategic Partnership	Chief Officers with responsibilities for these functions
Portfolio Holder for Core Services & Assets	Corporate Finance Procurement Audit & Governance Service Transformation ICT Human Resources Corporate Property Asset Management Treasury Management Revenues & Benefits Legal Services Democratic Services Car Parks Customer Services Corporate Health and Safety Constitution and Governance	Chief Officers with responsibilities for these functions

<p>Portfolio Holder for Community Development</p>	<p>Safer & Stronger Communities Education Community Safety Tackling Crime ASB Reduction Tackling Fear of Crime Integrated Enforcement Civil Parking Enforcement Street Wardens CCTV Management Community Development Locality Working Healthier Communities</p>	<p>Chief Officers with responsibilities for these functions</p>
<p>Portfolio Holder for Housing</p>	<p>Strategic Housing Homelessness Prevention Housing Advice Landlord Services Decent & Affordable Housing Private Sector Housing Child Protection Safeguarding Children Vulnerable Adults Neighbourhood Renewal Healthier Housing Garages</p>	<p>Chief Officers with responsibilities for these functions</p>
<p>Portfolio Holder for Reputation & Engagement</p>	<p>Public Relations Management Public Relations Communications Overview Tamworth Listens Graphics Publications Youth Council Corporate Consultation Budget Consultation HRA Consultation Services for Young People Tenant Engagement HRA Public Relations Third Sector Engagement Place Steering Group Gateways Project Participatory Budgeting</p>	<p>Chief Officers with responsibilities for these functions</p>
<p>Portfolio Holder for Environment and Waste Management</p>	<p>Strategic Waste Management Refuse Collection Recycling Services Waste Minimisation Public Health & Safety Community Health & Safety Licensing StreetScene Tamworth in Bloom Operations Clean Streets Enforcements</p>	

<p>Portfolio Holder for Economic Development & Enterprise</p>	<p>Heritage & Leisure Tourism Town Centre Development Education Business Liaison Business Development Development Management Building Control Voluntary Sector Parks and Play Outdoor/Indoor Events Market Development Local Plan Local Enterprise Partnerships Infrastructure / Transport</p>	<p>Chief Officers with responsibilities for these functions</p>
<p>Cabinet (Grants) Sub Committee</p>	<ul style="list-style-type: none"> • To determine applications under the grants to voluntary organisations scheme (small grants) • To determine applications under the Arts Grants Fund and the Sports Grant Fund 	

3.4 SCHEME OF DELEGATION TO OFFICERS

3.4.1 Introduction

- (a) In accordance with Article 13 of the Constitution this Scheme forms part of Part 3 of the Council's Constitution.
- (b) This Scheme is approved by the Council in respect of those functions which by virtue of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended or replaced) are not the responsibility of the Cabinet and which in accordance with Section 101 of the Local Government Act 1972 and all other powers enabling such delegation are delegated by the Council to officers.
- (c) This scheme is approved by the Leader of the Council in respect of those functions which under the Council's executive arrangements are the responsibility of the Cabinet as the executive and which in accordance with Section 9ED of the Local Government Act 2000 are delegated by the Leader of the Council to officers.
- (d) This Scheme is adopted with the intent that it should lead to a streamlining and simplification of the decision-making processes of the Council, and accordingly it should be interpreted widely rather than narrowly.

- (e) This Scheme delegates to Directors and other Authorised Officers the powers and duties necessary for the discharge of the Council's functions within the broad functional description set out, together with the specific delegations therein, and should be taken to include powers and duties within those descriptions under all present and future legislation, and all powers incidental to that legislation including the application of the incidental powers under Section 111 of the Local Government Act 1972, including the power to affix the Common Seal of the Council.
- (f) An Officer may decline to exercise delegated powers and instead report to the Council or appropriate Committee.
- (g) For the purpose of this Scheme:
- (i) "the estimates" means the revenue estimates approved by the Council.
 - (ii) "the establishment" means the staff establishment of the Council for which funds have been provided in the estimates.
 - (iii) "the Council" includes any committee or officer of the Council acting within delegated powers and acting as agent for another body or person.
 - (iv) "Authorised Officer" means an Officer who is specified under this Scheme as having the authority to exercise delegated powers and duties on behalf of the Council. This includes the Chief Executive, Executive Director Corporate Services, Director Transformation & Corporate Performance, the Solicitor to the Council & Monitoring Officer, Director Communities, Planning and Partnerships, Director Assets and Environment, Director Housing & Health, Director of Finance , Director Technology & Corporate Programmes..
 - (v) "function" includes any power or duty
 - (vi) "legislation" and "statute" includes subordinate legislation and "legislative" and "statutory" shall be construed accordingly
 - (vii) "proceedings" includes any tribunal, inquiry, arbitration or other legal or quasi-legal proceedings
 - (viii) "Portfolio Holder" shall be taken to mean a Councillor (including the Leader of the Council if so nominated) nominated in writing to the Proper Officer by the Leader of the Council as a Member of the Cabinet.
 - (ix) "Leader of the Council" shall mean the person elected to that position at the Annual Council meeting.
 - (x) "Proper Officer" shall be taken to mean the Officer appointed by the Council for the purpose of the Scheme, or in default of such appointment the Chief Executive of the Council.
 - (xi) "Statutory Officer" means:
 - the Head of Paid Service in respect of the manner in which the co-ordination by the Council of the discharge of their different functions is co-ordinated, the number of staff required for the discharge of those

functions, the organisation of those staff and the appointment and proper management of those staff;

- the Monitoring Officer in respect of any proposal, decision or omission which has given rise to or is likely to give rise to a breach of law or of any statutory code of practice, or maladministration;
- the Section 151 Officer in respect of the proper administration of the Council's financial affairs.
- "Ward Member" means a Councillor for any electoral area, which is identified in an Officer's report for a decision as being particularly affected by the proposed decision.

- (h) Where an Authorised Officer designation has ceased to exist eg because of a re-organisation of services the Authorised Officer shall be that person who has taken over responsibility for the function classified in this Scheme.

3.4.2 Limitations

- (a) This Scheme does not delegate to Officers:
- (i) any matter reserved by law or by the constitution, Terms of Reference of the Cabinet, Committees and Sub-Committees to the Council, or to a Committee or Sub-Committee of the Council;
 - (ii) any matter which by law may not be delegated to an officer;
 - (iii) any matter which is specifically excluded from delegation by this Scheme or by resolution of Council, the Cabinet or a Committee or Sub-Committee.
- (b) Officers may only exercise delegated powers in accordance with the:
- (i) Policies, Plans and Programmes approved by or on behalf of the Council;
 - (ii) budget and policy framework and executive procedural rules;
 - (iii) officer employment procedural rules;
 - (iv) Financial Regulations, Contract Standing Orders and Financial Guidance;
 - (v) any statutory restrictions, statutory guidance/circulars or statutory code of practice; and

- (vi) the provisions of the Council's Constitution.
- (c) In exercising delegated powers, Officers shall act only within the revenue and capital budgets for the relevant service as approved by the Council, subject to any variation thereof which is permitted by the Council's Financial Regulations, Contract Standing Orders and Financial Guidance.

3.4.3 Sub-Delegation

- (a) This Scheme includes the power for Officers to further delegate any function which has been delegated to them under this Scheme, to another Officer or to other Officers. Every such sub-delegation shall be in writing, setting out the name of the delegate, the terms and conditions upon which that function is to be performed, and accountability for the performance of the sub-delegated function. The Officer making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Authorised Officer responsible for the function.
- (b) Authorised Officers shall devolve operational responsibilities for day to day service delivery and management to the nearest practicable point to the service user.
- (c) The Officer named shall have the power to act for the purposes of these delegated matters as if he/she were the Authorised Officer. Sub-delegated decisions are taken in the name of the Authorised Officer.
- (d) Delegated Decision-Making – General Principles
 - (i) In exercising any delegated function, Officers shall have regard to the requirement to comply with the limitations set out in paragraph 2.2 above, and shall be responsible for undertaking any appropriate consultation with the Council's Statutory Officers before taking any decision.
 - (ii) If a function, power or responsibility has not been specifically reserved to the Council, a committee or the executive, the Authorised Officer within whose remit the matter falls is authorised to act.
 - (iii) Where any matter involves professional or technical considerations not within the sphere of competence of the Authorised Officer concerned, he shall consult with the appropriate Statutory Officer of the Council before authorising action. Such constraints are kept to the absolute minimum necessary for internal check.
 - (iv) The Officers exercising such powers shall take account of any previous decision of the Council on any relevant policies or procedures.
 - (v) All decisions shall be taken in the name of, but not necessarily personally by, the Officer(s) to whom the

power is delegated. Arrangements shall be made for the recording of action taken pursuant to these powers.

- (vi) In any case, where an Officer, exercising a delegated power or duty considers that a new departure in policy, procedure or a significant change in financial practice is likely to be involved, he/she shall consult with the Statutory Officer(s), who shall, if necessary, refer the matter to the appropriate decision-making process.
- (vii) Where there is a dispute between Authorised Officers, either Officer may refer the matter to the Chief Executive for appropriate action.
- (viii) The Chief Executive as the Head of Paid Service shall monitor the exercise of delegated powers and duties other than statutory functions for which other Authorised Officers have responsibility. The Chief Executive may require any Officer to cease the exercise of such powers and duties pending a report to the next meeting of the Council, Cabinet or appropriate Committee.

3.4.4 Interpretation

- (a) References in the Scheme to any statute, statutory instrument, regulation, rule, circular, agency or other agreement or any such matter in respect of which a power or duty is delegated shall be deemed to include any modification or re-enactment of the same as may be made from time to time.

3.5 GENERAL DELEGATIONS OF POWERS AND DUTIES TO AUTHORISED OFFICERS

Subject to the general principles and requirements of the Scheme, the following powers/duties are exercisable by the Authorised Officer.

3.5.1 Employment

Subject always to:

- (a) Budget provision;
- (b) The policies and practices adopted by the Council from time to time; and
- (c) Observance of contracts of employment and conditions of service including any discretions incorporated within them.

The Chief Executive and in addition the Authorised Officers shall be fully empowered in the following matters of HR Management as regards their respective Directorates and employees (other than those specifically subject to Appointments and Staffing Committee).

- To re-grade posts, hold posts vacant, amend the titles of posts and to make interim arrangements as necessary (where no budgetary impact)
- To make minor changes to Job Descriptions to be agreed with the appropriate Chief Officer prior to any changes being made. Changes to Job Descriptions should not include:
 - additional responsibilities warranting salary increases
 - not exceeding 25% of the existing job description (Consultation with staff prior to any change)

(d) Job Share/Reduced Hours

All posts should be available for job share (as specified in the local policy for job share), with the following exceptions:

Jobs with tied accommodation.

Chief Executive.

Monitoring Officer.

Returning Officer.

Section 151 Officer (Executive Director Corporate Services))

Job share/reduced hours which would disrupt management arrangements (e.g. the reduction in hours meant that the remaining hours were impossible to cover).

Employee contracts, for time limited periods e.g. fixed term contracts.

(e) Unpaid leave up to a maximum of 10 days may be granted subject to the demands of the service in the following circumstances:

Extended holidays

For reasons set out in the Employment Rights Act 1996 and 1999 (e.g. parental leave).

Compassionate grounds.

Exceptional circumstances

Religious observance.

NB: Annual leave and flexi leave should be taken into account.

(f) Secondment to another Service Unit or to an external organisation may be granted in accordance with the Council Policies in effect at the time of the secondment.

NB:

Increase in salary may be available subject to existing budget; otherwise the secondment must be on the basis of a staff loan (this may include budget virement).

(g) Training within available budget

All training should be notified to the appropriate Chief Officer, for monitoring purposes and identification as to whether it is to be considered as corporate training. It should be job related and for the purpose of:

Changes to job requirements

To meet an employee's skills gap

Personal development

To meet the business needs of the Service Unit

Succession planning and the future needs of the Council.

Such training will involve:

CPD

Training in-house

External courses/seminars.

NB:

Any other forms of training must be approved by the appropriate Chief Officer and the cost met out of the corporate training budget.

Training expenses and time off for attendance will be in accordance with the appropriate policies and procedures.

Records of all training must be kept by the appropriate Chief Officer.

(h) Compassionate Leave

Compassionate leave may be granted in the following circumstances:

Death/illness of close relative i.e. spouse, co-habitee (same or opposite sex), parent, parent-in-law, son, daughter, child of co-habitee, brother, sister, grandparent, grandchild.

Breakdown in partnerships (includes married couples and co-habitees).

Absence allowable as current policies (Consult Human Resources for advice).

- (i) To action matters arising from the application of the Council's Human Resource policies and procedures.
- (j) To deal with the appointment of staff and disciplinary/grievance proceedings in accordance with the Council's approved scheme. (Dismissal is referred to the Chief Executive, in accordance with Council Policy)

3.5.2 Subject always to budget provision to appoint and instruct when necessary temporary or agency staff provided there is no increase in the Council's permanent establishment, and outside agents or consultants to carry out specific work within the normal terms of reference of the Directorate of the relevant Director and to authorise overtime working for officers; and in consultation with the Chief Executive to authorise planned overtime for officers above the overtime limit..

3.5.3 To nominate an officer to deputise in the Director's absence.

B. Finance

Subject to:

- (a) Budget provision;
- (b) Having due regard to the professional advice pertinent to the particular matter;
 - (i) All Authorised Officers in respect of financial matters for which they are responsible can authorise expenditure within approved revenue budgets and decisions on works programmes within those budgets except any items reserved by the Council or Cabinet for further approval.
 - (ii) Approve expenditure within approved capital budgets and decisions on work programmes within those budgets. Authority to approve additional expenditure in accordance with current financial guidance.
 - (iii) Authorise the transfer of funds (virement) between approved revenue budget headings within a service area subject to there being no commitment to recurring expenditure in future years as determined by financial guidance.
 - (iv) In consultation with the Executive Director Corporate Services and where necessary the Portfolio Holder, to set unless the charge requires Cabinet approval rent, fee, charges and other income levels unless any changes:-
 - exceed inflation by more than 3% and/or

- involve a change in policy, or
 - potentially have significant political implications.
- (v) To authorise the write-off of individual sums in line with current financial guidance.
- (vi) Are responsible for the carrying forward from one financial year to another any approved planned expenditure that remains unspent (excluding wages and salaries budgets) provided a decision to approve is taken by Cabinet before the end of June in the new financial year.

C. Contracts

All authorised Officers shall comply with financial guidance in respect of contract tendering and procurement making use of the internal system where appropriate.

To include:

- (a) (a) Hiring of plant and engaging of specialist sub-contractors
- (b) Any special requirements or directions given by the Council, its Committees or the Cabinet.
- (c) To sign all contracts which fall outside the categories set out in Financial Guidance.

D. Miscellaneous

- (a) To exercise any power of the Council in relation to the Local Government Act 1972, the Local Government and Housing Act 1989, the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, the Localism Act 2011 and the Local Democracy Economic Development and Construction Act 2009 and the Localism Act 2011 as appropriate.
- (b) In consultation with Group Leaders and other Directors as appropriate to respond to consultation papers on matters which are routine or which do not have significant policy or financial implications.
- (c) In consultation with the Chief Executive, other Directors and/or the Communications Team as appropriate to respond to the press or otherwise to make personal statements on behalf of their service which are routine or do not have significant policy or financial implications.
- (d) Subject to securing independent valuation advice, to sell surplus vehicles, stores, equipment and services. All such sales shall be notified to the Executive Director Corporate Services before the property is handed over to the purchaser.

- (e) To exercise the Council's powers under Section 41 of the Local Government (Miscellaneous Provisions) Act 1982 (disposal of lost and unconnected property) and to notify the Executive Director Corporate Services before actual disposal.
- (f) After consultation with the Director Transformation & Corporate Performance to authorise the installation, replacement or removal of telephones in Council establishments and in premises occupied by employees.
- (g) To formulate the requirements for property use and occupation of the services and Directorates for which he is responsible.
- (h) To authorise the provision of equipment at Council premises.
- (i) To accept on behalf of the Authority contributions by individuals or bodies towards approved capital or revenue projects subject to the concurrence of the Solicitor to the Council and Executive Director Corporate Services as appropriate and reported to the next meeting of the Cabinet or relevant committee; provided always that any modifications or additions to Council property to be funded by third parties shall be agreed by the Director concerned subject to the advice of the Solicitor to the Council.
- (j) To issue, sign and serve all statutory notices and orders properly authorised by the Council, any decision-making body or an officer exercising delegated powers under this scheme and not specifically delegated under this Scheme to an Authorised Officer.
- (k) To liaise with and advise public, private, voluntary and community groups and other stakeholders relating to corporate issues.
- (l) To provide/contractually receive goods and services to/from adjoining authorities (subject to any requirement for competitive tendering), and (within the powers of the Authority) to supply/receive them to other bodies. (In accordance with Financial Regulations)
- (m) To prepare and sign any corporate policies and strategies authorised by the Council as appropriate.
- (n) In consultation with the relevant portfolio holder, to consultation on behalf of the authority where time prohibits the matter being referred to a Committee for consideration.
- (o) To assist the Chief Executive in any conflict regarding employment matters.
- (p) All authorised officers to be responsible for obtaining all relevant grants and awards that may be available to their service area.
- (q) Subject to the Council's Constitution (Contracts Procedure Rules), within their respective responsibilities for the functions of the Council, to accept a quotation submitted to the Council for the

provision of goods, materials, services or works in respect of a relevant function.

- (r) To attend meetings of professional and local government bodies of which they are members and to authorise the attendance of members of their departments at similar meetings.
- (s) To formulate responses and respond to any Freedom of Information enquiries.

3.6 SPECIFIC DIRECTORATE DELEGATIONS

Subject to the general principles and requirements of the Scheme the following powers/duties (expressed as functions) are delegated to the specified Authorised Officer.

(A) CHIEF EXECUTIVE

Delegations to the Chief Executive also include to the Executive Director Corporate Services in his absence.

	FUNCTION	AUTHORISED OFFICER
1.	<p>Urgent Action To take urgent action to protect the interests of the Council and the inhabitants of the Borough.</p>	Chief Executive in consultation with the Leader of the Council & opposition group leaders so far as is practicable
2.	<p>Major Incident/Emergencies To incur expenditure and commit resources within or adjoining borough until a meeting of the Council can be called to respond to a major incident/business continuity emergency when the Council's Emergency Plan or Business Continuity Plan is invoked. To designate Assistant Directors/Managers to carry out emergency functions.</p>	Chief Executive in consultation with Corporate Information Security Manager or relevant Chief Officer as far as is practicable
3.	<p>Corporate Complaints The administration of the Corporate Complaints Procedure.</p>	Chief Executive
4.	<p>Local Government Ombudsman To respond to the Local Government Ombudsman in respect of complaints of maladministration made against the Council. To authorise payments or other benefits under Section 92 Local Government Act 2000.</p>	Chief Executive in consultation with the appropriate Director and the Monitoring Officer and the Solicitor to the Council.

5.	<p>Head of Paid Service</p> <p>To carry out the statutory duties as Head of the Council's Paid Service in addition with the following specific powers:</p>	
	<p>(a) Appointment of staff and determination of individual salary points within the approved grading structure (provided that such decisions are not reserved to Appointments and Staffing Committee).</p> <p>(b) Long service awards and the award of increments within salary grades.</p> <p>Authority to execute letters and contracts of appointment</p> <p>(c) The exercise of disciplinary powers over staff (including power immediately to suspend), and to dismiss.</p> <p>Authority to execute letters of dismissal and compromise agreements to terminate employment.</p> <p>Authority to vary contracts of employment (subject to Council Policies and Committee decisions) and to execute such letter and contracts of variation</p> <p>Authority to pay overtime and planned overtime above the overtime limit.</p> <p>(d) The signing of Certificates of opinion to accompany applications for exemption for posts from political restrictions.</p> <p>(e) Honoraria to be paid in accordance with NJC conditions, or any local agreement with the following exceptions:</p> <p>Duties can be shared between more than one Director/Deputy/Assistant Director but payment would therefore be restricted to one to two increments.</p> <p>(f) To prepare and sign (or send or otherwise authenticate) any notice, order or other document authorised by the Council.</p>	<p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive Director Transformation & Corporate Performance</p> <p>Chief Executive Director Transformation & Corporate Performance</p> <p>Chief Executive Director Transformation & Corporate Performance</p> <p>Chief Executive Director Transformation & Corporate Performance</p> <p>Chief Executive Director Transformation & Corporate Performance Directors Solicitor to the Council</p> <p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive</p>

	<p>(g) To represent the Authority at any conference meeting or enquiry to which the Authority is invited unless the Council has indicated otherwise and to exercise any voting rights conferred by corporate membership of any body.</p> <p>(h) To settle proceedings regarding employment matters in consultation with the Solicitor to the Council & Monitoring Officer</p> <p>(i) To agree accelerated increments.</p> <p>(j) To enter into and execute such agreements on behalf of the Authority as required including but not limited to Partnership and other local area agreements.</p> <p>(k) To chair Director or other multi-disciplinary Groups.</p> <p>(l) To appoint multi-disciplinary teams or engage consultants to undertake projects falling outside the remit of any specific Director.</p> <p>(m) To assume the delegated powers of Directors in specific cases when requested so to do by such Director.</p> <p>(n) To make appropriate arrangements for the resolution of disputes between Directors.</p> <p>(o) On behalf of the Council where necessary and, having consulted the Leader of the Council, to suspend Directors pending the institution of disciplinary procedures.</p> <p>(p) To undertake the duties of Proper Officer in default of a specific appointment by the Council.</p> <p>(q) Ex-Gratia Settlement</p> <p>Settlement of claims in respect of loss or damage to an employee's personal effects</p>	<p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with appropriate Directors</p> <p>Chief Executive in consultation with Executive Director Corporate Services/Solicitor to the Council</p>
6.	<p>Returning Officer</p> <p>(a) To carry out the duties of Acting Returning Officer and Returning Officer for Parliamentary, Local, County and European Elections and Referendums.</p> <p>(b) To designate Polling Places where necessary in exceptional circumstances for Parliamentary,</p>	<p>Executive Director Corporate Services</p> <p>Executive Director Corporate Services</p>

	<p>European and Local Elections.</p> <p>(c) To amend from time to time the scale of fees, costs, charges and expenses to be allowed for Borough elections. (Note: the level of remuneration for the Returning Officer personally to be determined by Cabinet).</p>	Executive Director Corporate Services
7.	<p>Electoral Registration Officer</p> <p>To act as the Council's Electoral Registration Officer</p>	Executive Director Corporate Services
8.	<p>Common Seal</p> <p>To attest the Common Seal of the Borough Council</p> <p>To execute and/or attest any document as required on behalf of the Council.</p>	<p>Chief Executive/Solicitor to the Council</p> <p>Chief Executive/Solicitor to the Council</p>
9.	<p>Mayor</p> <p>To provide banking facilities for the Mayor, and to pay the Mayor's annual allowance as may be determined from time to time by the Council.</p>	Chief Executive
10.	<p>Monitoring Officer</p> <p>To act as the Council's Monitoring Officer and carry out the statutory duties set out in the Local Government & Housing Act 1989 the Local Government Act 2000 and the Localism Act 2011.</p>	Solicitor to the Council
11.	<p>Local Land Charges</p> <p>To reply to requisitions for a search of the Local Land Charges Register and Enquiries of Local Authorities.</p>	Solicitor to the Council
12.	<p>Town and Village Greens</p> <p>To consider applications for, and where appropriate, register Town and Village Greens under the Commons Registration Act 1965 and the Commons Act 2006.</p>	Solicitor to the Council
13.	<p>Representation in Court</p> <p>To authorise the appearance of persons other than Solicitors pursuant to Section 223 of the Local Government Act 1972.</p>	Solicitor to the Council in consultation with the Director Assets and Environment
14.	<p>Legal Proceedings (Civil)</p> <p>(a) To institute, defend, appeal from, settle or abandon legal proceedings whether administrative</p>	Solicitor to the Council in consultation with the appropriate Director

	<p>or civil in any matter in which the Council or its officers may institute or defend proceedings in any court or arbitration or administrative tribunal.</p> <p>(b) To institute proceedings in the Magistrates or Crown Court where there has been a breach of any statutory notice issues/served by the Council or where the Authority has a general power or duty to enforce the law through the criminal courts.</p>	Solicitor to the Council in consultation with the appropriate Director
15.	<p>Legal Agreements/Public Notices</p> <p>To be responsible for:</p> <p>(a) the execution of legal agreements pursuant to the Council's Procedural and Contract Rules.</p> <p>(b) the issue of Public Notices</p>	<p>Solicitor to the Council</p> <p>Solicitor to the Council</p>
16.	To make a charge on a property when an individual enters Part III residential accommodation.	Solicitor to the Council
17.	To enter into Deed of Release and/or Variation in landlord tenant matters.	Solicitor to the Council in consultation with Director Assets and Environment
18.	To take peaceable re-entry of leasehold property in the event of occupation of property not in agreement with agreed terms.	Solicitor to the Council
19.	To enter into nomination agreements on housing matters.	Solicitor to the Council
20.	To enter into Highway Bond Agreements under Sections 219 to 220 Highways Act 1980.	Solicitor to the Council
21.	Implementation of Decisions	
	To take all such steps as are in his/her opinion necessary, including the affixing of the Common Seal of the Council and the bringing of legal proceedings and the making of orders to give effect to any decision or action taken properly by the Council, or any duly authorised body or officer acting on its behalf, or to protect the interests of the Council or any person or property to whom or for which the Council has responsibility.	Solicitor to the Council in consultation with the appropriate Director
22.	<p>Compulsory Purchase Orders</p> <p>To make, vary and/or amend Compulsory Purchase Orders.</p>	Solicitor to the Council in consultation with the appropriate Director

23.	Property Management	
	Service of notices under Section 25 of the Landlord & Tenant Act 1954 to enable rents and any other new terms to be negotiated.	Solicitor to the Council in consultation with the Director Assets and Environment
24.	Arrangement of defective title indemnity cover in respect of land or property being disposed of by the Council up to a premium limit of £6,500 each such costs to be met from sale proceeds.	Solicitor to the Council
25.	Council Halls/Meeting Rooms To determine any applications for the use of Council halls or meeting rooms by extremist organisations other than use required under the Representation of the People Acts.	Solicitor to the Council in consultation with the Leader of the Council
26.	Hire of Civic Accommodation To waive the charges for the hire of Civic meeting rooms to outside organisations where such organisations are of a charitable or non-profit making nature or where there are exceptional circumstances.	Solicitor to the Council
27.	Regulation of Investigatory Powers Act 2000 To make any necessary amendments to the Covert Surveillance Policy and Procedural Guidance documentation.	Solicitor to the Council and Monitoring Officer
28.	Data Protection Act 1998 To adjust in the light of inflation the figure below which no charge be made for the supply of copies of documents under the Act on a one-off basis.	Director of Finance in consultation with Corporate Information Security Manager
29.	To determine arrangements for the inspection of background papers for meetings.	Solicitor to the Council
30.	Members' Allowances Scheme	
	To consider on its merits and make payment in respect of any claim not received within 4 months of the date of performance of the duty.	Chief Executive Executive Director Corporate Services
32.	Entertainment of Civic Guests/Hospitality	
	Authority to approve arrangements and expenditure in respect of the entertainment of civic guests within approved budget.	Chief Executive/Solicitor to the Council

	To arrange all civic ceremonies and ancillary events in consultation with the Mayor.	Chief Executive
33.	Courses & Seminars To approve the attendance of Members at courses and seminars.	Solicitor to the Council

(B) LAND AND PROPERTY

1. Subject always to:

- (a) Budget provision;
- (b) Having due regard to the professional advice pertinent to the particular matter.

The Director Assets and Environment in consultation with the Solicitor to the Council be authorised in respect of the land and property for which he is responsible subject to:

	FUNCTION	AUTHORISED OFFICER
(i)	To authorise the granting, renewal, termination, assignment or sub-letting of leases, tenancies or other interests in land and property.	Director Assets and Environment
(ii)	To approve variations in rent arising from rent reviews of land and property leased to or by the Council.	Director Assets and Environment
(iii)	To authorise the acquisition of legal estates or interests in land and property up to the value of £50,000 plus appropriate and reasonable incidental fees and costs in line with the Acquisitions and Disposals Policy.	Director Assets and Environment
(iv)	To authorise the disposal of legal estates or interests in land and property not required by the Council up to the value of £50,000 set out in the Acquisitions and Disposals Policy plus appropriate and reasonable incidental fees and costs.	Director Assets and Environment
(v)	To approve the payment of interest on the purchase price of land and property in those cases where entry on to the land is required in advance of completion.	Director Assets and Environment

(vi)	To authorise the taking, granting, revocation or termination of covenants, easements, wayleaves, licences and other rights or user and to undertake the management of land and property.	Director Assets and Environment
(vii)	To arrange for payment of appropriate rates, charges and taxes.	Director Assets and Environment
(viii)	To approve claims for disturbance arising out of compulsory and voluntary acquisitions.	Director Assets and Environment
(ix)	To commence preliminary negotiations with respect to any land or property to be acquired so as to be able to ascertain questions of willingness to sell and general terms.	Director Assets and Environment
(x)	To approve modifications or additions to Council land and property funded by third parties.	Director Assets and Environment
(xi)	To authorise works of improvement or repair to Council land and property.	Director Assets and Environment
(xii)	To authorise building maintenance work.	Director Assets and Environment
(xiii)	To authorise the design and execution of building and incidental work.	Director Assets and Environment
(xiv)	To commission building contracts to be entered into by the Council.	Director Assets and Environment
(xv)	To commission feasibility studies and value for money appraisals on all capital investments.	Director Assets and Environment
(xvi)	To authorise persons to apply for liquor and associated licences for use on premises.	Director Assets and Environment
(xvii)	To proceed with compulsory acquisition of rights over land under the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation.	Director Assets and Environment

(C) RESOURCES

	FUNCTION	AUTHORISED OFFICER
	Banking Arrangements and Cheques	
1.	All necessary arrangements with the Council's bankers and Girobank concerning the Council's banking requirements and to administer the same on a day to day basis including the provision of any necessary indemnity to the Council's bankers, and the authorisation of the signing of cheques and negotiable instruments.	Executive Director Corporate Services
2.	Arrangements for overdraft facilities as necessary within the limit authorised by the Council.	Executive Director Corporate Services
3.	The creation, investment, realisation and utilisation of sinking funds, reserves, capital funds and receipts and other special funds.	Executive Director Corporate Services
4.	To administer and act as Registrar in respect of existing Council bonds, including discretion to make premature payment.	Executive Director Corporate Services
5.	The raising and management of all loans (except stock) for the purpose and amount for which the Council is authorised to borrow money in accordance with Section 172 and Schedule 13 of the Local Government Act 1972.	Executive Director Corporate Services
6.	To exercise (as far as may be lawful) the powers of the Council to borrow and invest.	Executive Director Corporate Services
	Finance	
7.	Determination of accounting procedures and the form and extent of financial records.	Executive Director Corporate Services
8.	Production and distribution of financial management information.	Director of Finance
9.	Financial negotiations with external bodies in Consultation with the Chief Executive and Solicitor to the Council & Monitoring officer. Determination of the manner in which the cost of capital schemes is to be defrayed and the application of capital receipts.	Executive Director Corporate Services

10.	Approval of accounts for payment, having been satisfied that payment is lawful and that property certification procedures have been followed.	CMT Members
11.	Co-ordination, control and supervision of all monies due to the Council.	Executive Director Corporate Services
12.	Issue of all cheques appropriately signed for: <ul style="list-style-type: none"> • cheques below £10,000 bearing facsimile signature • cheques in excess of £10,000 bearing the autograph signature of authorised officers. 	Executive Director Corporate Services
13.	Undertaking all borrowing of monies, financial and operational leasing of vehicles, equipment and other assets and the making of all arrangements concerning the investment or utilising of capital monies and other funds.	Executive Director Corporate Services
14.	Registrar of Council Bonds and Stock Issues.	
15.	Approval of all petty cash floats and imprests to officers.	Executive Director Corporate Services
16.	Agreeing form in which stores and stock records are kept, and agreement to adjustments to accounts if less than £5,000 in any one year.	Executive Director Corporate Services Executive Director Corporate Services
17.	Declarations and Certificates relating to Securities.	
18.	The Executive Director Corporate Services shall be the delegated officer for signing/authorising any statutory, legal, grant documents requiring the signature of a finance officer.	Executive Director Corporate Services Executive Director Corporate Services
19.	The payment and reimbursement of monies in respect of Benefit Scheme and Grant Subsidy income.	
20.	The Executive Director Corporate Services to report quarterly to Council on the Councils Financial Position.	Executive Director Corporate Services Executive Director Corporate Services
21.	To determine the method of financing of capital projects within the overall financing reserves strategy of the Council.	Executive Director Corporate Services
22	To arrange credit cards and limits for staff use on behalf of the Council	Executive Director Corporate Services

23.	<p>National Non Domestic Rates</p> <p>The powers, duties and functions as required/granted under the Local Government Finance Act 1988 as amended by the Localism Act 2011 Part 4.</p>	Executive Director Corporate Services
24.	<p>National Non Domestic Rates</p> <p>The issue of demands for void rates in respect of empty properties within such class or classes of hereditaments which the Council shall have determined to be subject to change under Non-Domestic Rating (Unoccupied Property) Regulations 1989 as amended.</p>	Executive Director Corporate Services
25.	Any action necessary in respect of the recovery of rates including void rates.	Executive Director Corporate Services
26.	Action on Valuation Officer's proposals for revision of rating assessments.	Executive Director Corporate Services
27.	Lodging of proposals by the Council for revision of existing rating assessments.	Executive Director Corporate Services
28.	To deal with the remission of Non-Domestic Rates under statute.	Executive Director Corporate Services
29.	To determine, where necessary, whether or not objection should be made to any proposal for the amendment of the Valuation Lists, and whether or not compromises should be agreed.	Executive Director Corporate Services
30.	To arbitrate claims for discretionary rate relief applications in consultation with the relevant Portfolio Holder.	Executive Director Corporate Services
30.	Making allowances under Section 47 and Section 48 of the Local Government Finance Act 1988.	Executive Director Corporate Services
31.	<p>Mortgages & Advances</p> <p>To determine the rate of interest to be applied to advances on mortgage for house purchase, etc., The Housing (Financial Provisions) Act 1958 and the Section 110 of the Housing Act 1980.</p>	Executive Director Corporate Services and Director of Finance

32.	To deal with applications for advances on mortgages for house purchase, etc., under the Housing Act 1980 where no special considerations arise.	Director of Finance
	Sundry Income & Miscellaneous Rents	
33.	<p>To collect income of the Council, including:</p> <ul style="list-style-type: none"> • the recovery of unpaid income of the Council by the issue of summonses or otherwise, including proceedings in tribunals and inferior courts • the issue and recovery of penalties (or their waiver and writing off) under the Third Schedule to the Local Government Finance Act 1988 and the Third Schedule to the Local Government Finance Act 1992. • The writing off of Court costs in respect of rates and council tax. • The payment of sums properly payable from the Collection Fund. • Requests to the Valuation Officer to revise valuation lists by e.g. the inclusion of newly completed properties, and appeals against valuations of Council property. • The determination of on-costs and rates of interest in respect of any sums due where such on-cost or interest is properly chargeable. • To set fees in consultation with the Chief Executive, for the provision of personal information protected by the Data Protection legislation and for the provision of information subject to the Freedom of Information legislation. 	Executive Director Corporate Services in conjunction with the appropriate Director.
	Insurances	
34.	Management of the Council's insurances including the renewal of policies within long term agreements.	Director of Finance
35.	<p>Approval of payments from the insurance fund in respect of claims meeting the criteria and terms of self-insured risks.</p> <p>To deal with all insurance against loss to or liability of the Council including the areas of cover, the extent of cover, the negotiation and acceptance of conditions of cover, and settlement</p>	Executive Director Corporate Services

	of claims against the insurer or by a claimant (so far as permitted by the insurer).	
	Car Loans & Allowances	
36.	<p>a) The day to day grant and administration of car loans, and financial allowances to staff, including the schemes for travelling, subsistence, relocation expenses, telephone and car allowances, including variations to local terms to reflect variation in national agreed schemes or in line with inflation.</p> <p>b) The authorisation /sign off of car loan agreements</p>	<p>Director of Transformation and Corporate Performance</p> <p>Executive Director Corporate Services</p>
37.	To regularly review the interest rate charged on car loans and adjust the rate to provide that the true annual interest rate charged on loans should be calculated in line with the Bank of England base rate prevailing at the time the loan is approved subject to a minimum level of 3% (in line with scheme conditions for term rates).	Director of Finance
38.	Determination of eligibility for the amount of loan within approved policy.	Director of Transformation and Corporate Performance
39.	Determination of eligibility for car purchase loans within approved policy.	Head of Organisational Development in consultation with appropriate Director
40.	Management of the Council's Car Allowance Scheme in accordance with approved guidelines.	Director of Transformation and Corporate Performance in consultation with appropriate Director and Head of Organisational Development
	Remuneration & Organisational Review	
41.	(a) The payment of salaries, allowances and authorised supplementary payments, and the authorised deduction of appropriate sums and payment thereof to any body to whom such payment is due, and including the implementation of national awards in respect of salaries, etc. the payment of superannuation gratuities (following Cabinet/Council resolution).	Director of Transformation and Corporate Performance and Head of Organisational Development
	(b) Advance payments of salaries, wages and allowances (excluding Member allowances) to be made in accordance with the Financial Regulations.	Director of Transformation and Corporate Performance and Head of Organisational Development

42.	Representation of Council in Court To authorise appropriate staff to represent the Council in Court in respect of Sundry Income, Council Tax and Non-Domestic Rates debt.	Executive Director Corporate Services/Head of Revenues/Solicitor to the Council & Monitoring Officer.
43.	Health & Safety In respect of the Council's own premises and land, authority to instruct contractor(s) to cease work where it may constitute a risk to the health and safety of the public and/or employees or where there is a breach of a contractual requirement or statutory duty.	Director Assets and Environment in consultation with Chief Executive and the appropriate Director
44.	Write-offs In respect of all write-off's below £10,000.	Executive Director Corporate Services
	Housing & Council Tax Benefit	
45.	To take all necessary action in the general administration, implementation and enforcement of the Housing Benefit Regulations 2006 and the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 including the submission of returns, funding arrangements, and other such documents.	Head of Benefits
46.	To apply administration penalties and administer Cautions under current legislation in relation to Social Security and Council Tax Reduction fraud.	Head of Benefits
47.	Council Tax Lodging of proposals by the Council for revision of existing bandings.	Executive Director Corporate Services
48.	(a) To discharge any of the functions imposed upon and capable of delegation to an Officer by the Borough Council, as a billing authority, by virtue of the Local Government Finance Act 1992 (as amended) in connection with the administration, billing collection and recovery of the Council Tax including: <ul style="list-style-type: none"> To give due notice of the agreed Council Tax in the manner provided by Section 38(2) of the 1992 Act. 	Executive Director Corporate Services Executive Director Corporate Services

	<ul style="list-style-type: none"> To apply when necessary for a summons against any Council Tax payer or non-domestic ratepayer on whom an account for the said tax or rate and arrears has been duly served and who has failed to pay the amounts due to take all subsequent necessary action to recover them promptly. 	Executive Director Corporate Services
	<ul style="list-style-type: none"> To collect (and disperse from the relevant accounts) the Council Tax and National Non-Domestic Rate. 	Executive Director Corporate Services
	(b) To impose or revoke penalties under the provisions of Schedule 3 of the Local Government Finance Act 1992 (as amended).	Executive Director Corporate Services
	(c) Arrangements for Officers to agree with any Council Tax payer an alternative payment to the standard scheme where it is considered that it is in the best interests of the Authority.	Executive Director Corporate Service
	(d) To determine applications for awards of Local Council Tax discount in cases of hardship. Appeals against awards to be determined by a Member Appeals Panel.	Executive Director Corporate Service
	(e) To consider any referenda received from persons regarding increases in Council Tax as provided in the Local Government Finance Act 1992 as amended	Executive Director Corporate Service

(D) HOUSING AND HEALTH

	FUNCTION	AUTHORISED OFFICER
1.	<p>Consultation</p> <p>To consult and promote participation of tenants in service development.</p>	Director Housing and Health
2.	<p>Government Returns</p> <p>Complete H.I.P. returns annually in line with the agreed capital programme and strategy.</p>	Director Housing and Health
	<p>Tenants' Improvements</p>	
3.	Approval or refusal of applications from tenants to carry out external or internal improvements to Council accommodation subject to the Housing Act 1985 and subject to compliance	Director Housing and Health/ Director Assets and Environment

	with building regulations and planning requirements.	
4.	<p>Improvements to Sold Council Dwellings</p> <p>Approval or refusal of applications from owners of sold Council dwellings:-</p> <p>(a) To carry out internal improvements or external improvements not involving significant additions to the existing building.</p> <p>(b) To carry out significant external improvements.</p>	<p>Director Assets and Environment</p> <p>Director Housing and Health/ Director Assets and Environment</p> <p>Director Housing and Health/ Director Assets and Environment</p>
5.	<p>Rents & Management Matters</p> <p>(a) Fixing of rents for properties on Council housing estates used for special purposes.</p> <p>(b) Payment of sums as approved to tenants in respect of their transfer from under-occupied housing of any type to smaller properties.</p> <p>(c) To deal with tenant consultation in accordance with the Council's policy and current legislation.</p> <p>(d) Payment of reasonable removal and reconnection of appliance expenses and a disturbance allowance (not exceeding the maximum approved from time to time), in appropriate cases to tenants who are requested to move by the Council, and where there is a management advantage to the Council in their moving.</p> <p>(e) Service of Notice of Variation of Rent.</p> <p>(f) Amendments to tenancy terms in accordance with the Council's policy.</p>	<p>Executive Director Corporate Services and Director Housing and Health</p> <p>Head of Landlord Services</p> <p>Director Housing and Health</p> <p>Director Housing and Health</p> <p>Director Housing and Health</p> <p>Director Housing and Health in consultation with Solicitor to the Council</p>
	(g) Fixing of standard charges for rechargeable repairs.	Head of Landlord Services/ Repairs Manager
	(h) Approval of applications for "three room scheme" of internal redecoration.	Head of Landlord Services/ Repairs Manager

	(i) Authorisation of refunds of undue expenditure, rent refunds and similar items (not the fault of the tenants) in appropriate circumstances; waiver of rents and charges in respect of temporary disruption of occupation or services; authority to waive or reduce the standard charge for bed and breakfast accommodation in cases of hardship.	Head of Landlord Services
	(j) Authority to act on behalf of the Council in respect of the provisions of the Housing Act 1985 (amended), including powers to serve notice, powers of entry and inspection, survey and examination under sections 197, 395, 319 (1), 337 (1), 340(1) and elsewhere within the Act.	Head of Landlord Services
	(k) Ordering of works of alteration within budget provision to Council properties to meet the needs of disabled persons.	Head of Landlord Services
	(l) Issue of distress warrants for rent arrears.	Head of Landlord Services
6.	Homelessness (a) To consider and deal with cases of permanent re-housing arising from the implementation of Part 7 of the 1996 Housing Act. as amended. (b) Determination of appeals against decisions in homelessness cases in accordance with approved policy guidelines. (c) Authorisation to give rent guarantees as part of the duty to provide advice and assistance and the prevention of homelessness. (d) To deal with the leasing of private sector properties in accordance with the Council's approved scheme.	Head of Housing Advice Director Housing and Health/ Head of Housing Advice Head of Housing Advice Head of Housing Advice

7.	<p>Allocation Scheme</p> <p>(a) To deal with all matters in connection with (i) the allocation of housing accommodation in accordance with current legislation and the schemes of allocation adopted by the Council and (ii) applications for transfer and exchanges of accommodation.</p> <p>(b) To deal with all applications from tenants of the Council for alternative accommodation on non-housing needs grounds.</p>	<p>Head of Landlord Services/Head of Housing Advice</p> <p>Head of Landlord Services/Head of Housing Advice</p>
	<p>(c) Re-housing of the tenants and their families in cases where Closing, Demolition and Clearance Orders are made.</p> <p>(d) Acceptance of service authorities' certificates of cessation of entitlement to occupy a service quarter in lieu of Court Order.</p> <p>(e) To amend or vary the designation as elderly persons dwellings, bed-sit bungalows and one bedroom flats which are not part of a sheltered complex.</p> <p>(f) Appeals on those matters referred to in (a) and (b) above.</p> <p>(g) To transfer tenants on management grounds.</p>	<p>Head of Landlord Services/Head of Housing Advice</p> <p>Head of Landlord Services</p> <p>Director Housing and Health</p> <p>Director Housing and Health</p> <p>Director Housing and Health</p>
8.	<p>Provision of Council Housing in Special Cases</p> <p>(a) Within established policy deal with applications for priority housing on medical grounds, non-housing need grounds and emergency housing accommodation from persons who are homeless or threatened with eviction from their present accommodation.</p> <p>(b) Appeals on those matters referred to in 11 (a) above.</p>	<p>Head of Landlord Services/Head of Housing Advice</p> <p>Director Housing and Health</p>

	Management of Council Housing	
9.	To deal with:	
	(a) Applications for succession of tenancy within statutory right where the property is not under-occupied.	Director Housing and Health
	(b) Applications for second succession or succession leading to under-occupation.	Director Housing and Health
	(c) Applications for assignment of a tenancy.	Director Housing and Health
	(d) Applications to sublet or part with possession of part of a property.	Director Housing and Health
	(e) Application under the "right to approve".	Director Housing and Health
<p>N.B. Appeals against the Officer decisions referred to in 11 and 12(i), (iii), (iv) and (v) shall be considered initially by the Director Housing and Health. There may be a further appeal to the Appeals Sub-Committee on referral by Officers or at the request of 3 Members.</p>		
	Termination, Possession & Legal Proceedings	
10.	(a) To sign and serve Notices of Seeking Possession for tenancy conditions.	Head of Landlord Services
	(b) To serve Notice to quit for unauthorised occupation or abandonment of tenancy and recover possession.	Head of Landlord Services
	(c) To authorise possession proceedings.	Head of Landlord Services
	(d) To authorise eviction proceedings.	Head of Landlord Services
	(e) Recovery of Court costs and associated fees from Possession Proceedings, and other legal action for breach of Tenancy Conditions.	Head of Landlord Services
	(f) Waiver of or partial claim for Court costs where reasonable.	Head of Landlord Services
	Squatting	
11.	To authorise recovery under the Criminal Law Act 1977.	Head of Landlord Services

	Sales of Housing	
12.	Signature of TP1 and Right to Buy (RTB) forms in connection with Housing Act 1985.	Solicitor to the Council
13.	<p>In respect of sales under the Housing Act 1985, the Housing & Building Control Act 1984 and any voluntary sales scheme to:</p> <p>(a) Seek determination from the Secretary of State – appropriate cases, to serve Admission of the Right to Buy, authorise cases in pursuance of Sections 4(2) and 15(2) of the Housing Act 1985 and acceptance of statutory declarations;</p> <p>(b) Approve and exercise discretions permitted in the Acts covering mortgages;</p> <p>(c) Determine the parameters in respect of mortgage offers to be made in cases where a tenant has served a Notice requesting a shared equity lease;</p> <p>(d) Grant of extension of time limits as permitted;</p> <p>(e) (i) Determine service charges in respect of leasehold sales and refunds in accordance with current legislation;</p> <p>(ii) To authorise refunds of undue expenditure on service charges and similar items (not the fault of leaseholders) in appropriate circumstances;</p> <p>(iii) To waive charges in respect of temporary disruption of occupation or services.</p> <p>(f) Carry out structural surveys as required.</p> <p>(g) Determine applications for the purchase of amenity areas and off-site garages by Right to Buy purchasers;</p>	<p>Solicitor to the Council</p> <p>Solicitor to the Council</p> <p>Solicitor to the Council</p> <p>Director Assets & Environment</p> <p>Director Assets & Environment</p> <p>Director Assets & Environment</p> <p>Director Assets & Environment</p> <p>Director Assets and Environment</p> <p>Director Assets and Environment</p>

	(h) To decide on applications for the Right to Buy from tenants of designated elderly persons' dwellings, in accordance with the legislation currently in force, ensuring that as far as possible the properties concerned are retained in the Council's housing stock;	Solicitor to the Council
	(i) Appeal against discretionary determinations.	Solicitor to the Council
	Tenants' Right to Repair	
14.	(a) Authority to operate statutory schemes under Right to Repair legislation.	Head of Landlord Services
	(b) Authority to pay compensation for failure of the Council to carry out repairs in accordance with the Tenancy Agreement and current Landlord and Tenant legislation.	Head of Landlord Services
	Harassment	
15.	Investigation of complaints or alleged offences, under Landlord & Tenant Act 1962 and under the Protection from Eviction Act 1977.	Head of Landlord Services and Head of Housing Advice
16.	To determine applications for transfer from tenants suffering from harassment.	Head of Landlord Services
	Private Tenants – Restoration of Services	
	Local Government (Miscellaneous Provisions) Act 1976/1982	
17.	Section 33 (Assistance to private tenants in restoration or continuation of supply of water, gas or electricity).	Head of Housing Advice
	Private Sector Housing	
18.	(a) To exercise all of the Council's powers and duties under the housing/public health statutes set out in Appendix 1 and any Regulations and Orders made thereunder:	Director Housing and Health
	(b) To authorise suitably qualified Officers to exercise the various powers of entry for the purposes of inspection, survey etc. as provided for by the above-mentioned statutes.	Director Housing and Health

	Authorised Signatories for Affordable Housing Funded Schemes	
19.	(a) Authority to sign Local Authority Social Housing Grant applications, subject to available Capital Funding.	Head of Housing & Health Strategy
	(b) Authority to sign Housing Association Grants claims.	Head of Housing & Health Strategy
	(c) Authority to sign scheme work certifications.	Head of Housing & Health Strategy
	Infill Housing Sites on Council Housing Estates	
20.	Authority to approve sites before proceeding further.	Director Housing and Health and Director Assets and Environment
21.	Authority to dispose of surplus sites to Registered Social Landlords for provision of new affordable housing.	Director Housing and Health and Director Assets and Environment
	Demolition of Unfit Properties/Garage Sites	
22.	Following completion of Compulsory Purchase Order to arrange for demolition of unfit housing or garage site in the interests of public safety and health and to seek to recover any expenditure as appropriate.	Director Housing and Health and Director Assets and Environment in consultation with Solicitor to the Council
	Public Health - Public Health Act 1936	Director Housing and Health and Director Assets and Environment
23.	Incurring of expenditure in premises requiring emergency cleansing on a discretionary basis.	Director Housing & Health
24.	To set charges for individual alarm units that cover the actual cost of purchase by the Council.	Director Housing and Health
25.	To waive the connection charge for individual alarm units provided by third parties and to vary this charge in response to market conditions for other subscribers.	Director Housing and Health

(E) COMMUNITIES, PLANNING AND PARTNERSHIPS

	Building Control	
1.	Notices and action under Sections 16 and 18 of the Building Act 1984.	Director of Communities Planning and Partnerships , Head of Planning & Regeneration and

		Development Control Manager through Partnership Agreement with Lichfield District Council and South Staffordshire Council
2.	Directions under Sections 8, 10, 15, 19, 20, 21, 24, 25, 30, 32, 33, 35, 36, 47, 72, 77, 78, 79, 80, 81, 95, 96 and 107 of the Building Act 1984.	Director of Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council
3.	Notices and action under the Building Regulations 2000 and subsequent amendments thereto.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council
4.	To determine the scheme of charges to recover the costs in connection with the performance of the functions relating to building regulations as provided by the Building (Local authority Charges) Regulations 2010 and subsequent amendments thereto.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council in consultation with Director of Finance
	Clean Air – Height of Chimney	
5.	Notices and action under Section 10 of the Clean Air Act 1956 (Height of Chimneys – for development control purposes).	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager
	Scaffolding & Hoarding	
6.	Issue of licences and appropriate actions under Section 169, 171 and 172 of the Highways Act 1980.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council
	Party Wall Act 1996	
7.	Appointment of “third” surveyor under Section 10 of the Party Wall Act 1996.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council

	Protection of Buildings during Demolition	
8.	Action under Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council
	Uninspected Work	
9.	Laying open uninspected work under Regulation 15 of the Building Regulations 2000.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager through Partnership Agreement with Lichfield District Council
	Development Control Functions	
10.	The Development Control Functions set out in the Appendix 2 hereto.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager
	Emergency Tree Works	
11.	Action under Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976 in cases of emergency (including the institution of legal proceedings and prosecutions).	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager
12.	The making and confirmation of orders under Sections 198 and 201 of the Town & Country Planning Act 1990 for the preservation of trees in the Borough (where no objections have been received) and issue of consents to the felling, topping, lopping, etc. of individual trees.	Head of Planning & Regeneration and Development/Development Control Manager
	Cable Television	
13.	Response to consultations between The Cable Corporation and the Local Planning Authority regarding the proposed installation of cable television apparatus except for proposals relating to installations within conservation areas or affecting listed buildings or where it is considered an objection should be raised.	Director of Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager
	Advertising Boards	
14.	Determination of applications for	Director of Communities, Planning

	advertisement consent made in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and in consultation with the Borough Secretary and Solicitor the powers in these Regulations relating to the discontinuance of deemed consent.	& Partnerships, Head of Planning & Regeneration and Development Control Manager
	Demolition	
15.	To determine whether the approval of the Council will be required to the method of the proposed demolition and any proposed restoration of the site under the relevant regulations.	Director Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager
16.	To determine whether to approve the submission of subsequent details of demolition/restoration under the relevant regulations.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager
	Town & Country Planning Act 1990 (as amended)	
17.	(a) To issue & serve planning contravention notices under Section 171C of the Act and to consider any representations subsequently received.	Director Communities, Planning & Partnerships , Head of Planning & Regeneration and Development Control Manager
	(b) To authorise the issue and service of an Enforcement Notice, Stop Notice and Temporary Stop Notice under the Town & Country Planning Act 1990 where urgent action is required to protect the amenities of local residents and the surrounding area.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager
	(c) To authorise the issue and service of an enforcement notice where operational development (i.e. building, engineering, mining or other operations) or an unauthorised change of use has occurred.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager
	(d) To authorise the issue and service of a notice requiring the proper maintenance of land under Section 215 of the Town and Country Planning Act 1990.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager

	<p>(e) To authorise the raising and issuing of notices under the provisions of S.330 and S. 172 of the Town and Country Planning Act 1990 and/or S.16 of the Local Government (Miscellaneous) (Provisions) Act 1976 and the Local Government and Planning (Amendment) Act 1981 and Planning Contravention Notices under S.171c and 171d of the Town & Country Planning Act 1990.</p> <p>(f) Not to take enforcement action in those cases where it would be in expedient.</p>	<p>Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager</p> <p>Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager</p>
	Planning & Compensation Act 1991	
18.	To decide to decline to determine applications if he/she is satisfied that they fall within all provisions of Section 17 of the Act.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager
	Listed Buildings	
19.	To take urgent action in respect of Listed Buildings and Conservation Areas under the provisions of the Planning (Listed Buildings & Conservation Areas) Act 1990.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager
	Planning Briefs	
20.	Approval of planning briefs in accordance with planning policy.	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager
	Street Naming and Numbering	
21.	<p>Towns Improvement Clauses Act 1847, Public Health Acts Amendment Act 1907 and Public Health Act 1925</p> <p>Numbering and re-numbering of premises in streets.</p>	Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager

22.	<p>Allocation of new street names</p> <p>Planning Act 2008</p> <p>Community Infrastructure Levy</p>	<p>Director Communities, Planning & Partnerships, Head of Planning & Regeneration and Development Control Manager</p>
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(F) ASSETS AND ENVIRONMENT

	FUNCTION	AUTHORISED OFFICER
	Highways & Transportation Services - Regulatory Functions	
1.	The Highway & Transportation functions set out in Appendix 3.	Director Assets and Environment
2.	To enforce the provisions of the Highways Act 1980 that relate to enviro-crime, nuisance parking and nuisance where applicable to the Borough Council.	Director Assets and Environment
3.	Authority to remove and/or obliterate all unauthorised signs and free standing advertisement boards on or projecting over highway or Council land; charge for their return and following warning to the owners, destroy any signs not collected within 21 days and instigate legal proceedings against persistent offenders as necessary. [Sections 224 and 225 Town and Country Planning Act 1990]	Director Assets and Environment
4.	Position of litter bins.	Director Assets & Environment
5.	Selection of sites for and planting of street trees within approved estimates.	Director Assets & Environment
	Permits	
6.	Issue of permits for vehicles to enter the High Street in accordance with the terms of the Traffic Order(s).	Director Assets & Environment
7.	To exercise the Council's powers under the Road Traffic Regulations (Special Events) Act 1994 to restrict or prohibit vehicular and pedestrian movements as necessary to facilitate the holding of a relevant event where the Solicitor to the Council considers an order under the Town Police Clauses Act 1847 is inappropriate.	The relevant Director in consultation with the Solicitor to the Council.

	Hackney Carriages & Private Hire Vehicles	
8.	(a) Substitution of vehicles under existing Hackney Carriages and Private Hire Licences. (b) Transfer of ownership of Hackney Carriages and Private Hire Vehicles.	Director Assets & Environment
	(c) The grant or renewal of Hackney Carriage Drivers and Private Hire Vehicles, Operators and Driver's Licences (except when drivers have convictions) in accordance with guidelines laid down.	
9.	Allotments Decisions on requests from allotment associations for permission to erect additional storage accommodation at their own expense for member's use, subject to compliance with planning legislation.	Director Assets and Environment
10.	Routine management of allotment plots in accordance with Smallholdings and Allotments Act 1908 and Allotments Act 1922.	Director Assets and Environment
	Cemetery & Crematorium	
11.	Management of the Cemetery and Crematorium in accordance with Cemetery and Crematorium Rules and appropriate statutory provisions.	Director Assets & Environment
	Commercial Transport	
12.	Appointed Licence holder for any commercial transport for the Council	Director Assets & Environment

(G) MISCELLANEOUS

	Emergency Planning	
1.	All matters relating to the preparation, production, maintenance and implementation of the Council's Emergency Peacetime and Civil Defence Plans.	Corporate Information Security Manager

	Public Transport	
2.	To exercise the power of the Council under Section 7 of the Transport Act 1985 to request the Traffic Commission to make, vary or revoke Traffic Regulation conditions affecting local services or to hold an inquiry prior to determination of such conditions.	Director Assets & Environment Director Communities, Planning & Partnerships
3.	To enter into public transport service subsidy agreements under the Transport Act 1985 where they are exempted from the tendering requirements in that Act.	Director Assets & Environment Director Communities, Planning & Partnerships
4.	To lodge holding objections regarding proposals by operators for withdrawals of or alterations to rail services, or the fares and charges thereof, where it is anticipated that extra Council expenditure would result, and to pursue objections before the Transport Users Consultative Committee.	Director Assets & Environment Director Communities, Planning & Partnerships
5.	To serve a 42 day Notice of Deregulation	
	Stopping Up	
6.	To exercise the powers of the Highway Authority to stop up or divert the highway or private access to the highway under the Highways Act 1980 and the Town and Country Planning Act 1990 (if applicable) and to undertake all necessary legal procedures in connection therewith.	Director Assets & Environment Director Communities, Planning & Partnerships
	Traffic Regulation Orders	
7.	To consider objections to proposed Traffic Regulation Orders and formal notices to other traffic management matters including traffic calming measures and Public Rights of Way and to authorise the making of the necessary orders with or without modification or to refer to the Cabinet as appropriate.	Director Assets & Environment Director Communities, Planning & Partnerships
	Formal Cautions	
8.	To issue formal cautions with respect to Environmental Health, Community Safety, Licensing and Registration functions (to meet current Home Office requirements) on behalf of the Council. To delegate authority to suitably qualified officers to issue cautions.	Director Assets & Environment/ Director Communities, Planning & Partnerships or as appropriate and/or Director Housing and Health

9.	<p>Public Health Acts (Amendment) Act 1907</p> <p>Authority to act on behalf of the Council in respect of the provisions of the Public Health Acts (Amendment) Act 1907.</p>	Appropriate Director
10.	Wildlife and Countryside Act 1981	Appropriate Director
11.	Guard Dogs Act 1975 (as amended)	Appropriate Director
12.	<p>Authority to act on behalf of the Council in respect of the provisions of Section 2 of the Local Government Act 2000 (the Wellbeing Power).</p> <p>Information and Communication Technology</p>	Appropriate Director
13.	To enter into contracts for the provision of information technology systems	Appropriate Director in consultation with the Director Technology & Corporate Programmes

APPENDIX 1

HOUSING & PUBLIC HEALTH

a) PRIVATE SECTOR HOUSING FUNCTIONS

The power and duties of the Council contained in the following Acts of Parliament are delegated to the Director Housing and Health to the extent set out in the right-hand column:-

ACT	EXTENT OF DELEGATION (Parts or Sections)
Housing Act 1985 (as amended)	Part VIII Area Improvement (except declaration of Neighbourhood Renewal Area) Part IX Slum Clearance (except declaration of Clearance Area).
Housing Grants, Construction & Regeneration Act 1996	Mandatory Grants to help with disabled facilities.
The Regulatory Reform (Housing Assistance) Order 2002	Policy for grants etc. for renewal of Private Sector Housing and Provision of discretionary disabled facilities grants. DFG's and HRA grants are carried out by property services who are under the Deputy Director Assets and Environment. Private Sector Housing undertake empty property grants so will need these delegations but they must also be put in appendix 3.
Public Health Act 1936	Sections 45, 50, 83, 84, 268 and 269
Prevention of Damage by Pests Act 1949	Sections 4, 5, 6 & 7
Caravan Site & Control of Development Act 1960	Conditional licensing of caravan sites, subject to current planning permission, including approval to transfer licences and stationing of caravans.
Public Health Act 1961 (as amended)	Sections 17 and 34.
ACT	EXTENT OF DELEGATION (Parts or Sections)
Housing Act 2004	Part I – Enforcement of housing conditions Part II – Licensing of houses in Multiple Occupation Part III – Selective licensing of other residential accommodation Part IV – Additional control provisions in relation to residential accommodation (interim and final management orders in HMOs and empty dwellings), Overcrowding and supplementary provisions.

	Part VI other provisions about housing – secure tenancies /rights to buy, mobile homes, overcrowding and other provisions. Part VII – supplementary and final provisions.
Local Government (Miscellaneous Provisions) Act 1976	Section 16, 29 & 35
Local Government (Miscellaneous Provisions) Act 1982	Sections 27, 29, 30 31 & 32.
Building Act 1984	Sections 59, 60, 64, 76, 79.
Environmental Protection Act 1990	Part III Statutory Notices

APPENDIX 2

DEVELOPMENT CONTROL FUNCTIONS

The following functions are delegated to the Director Communities, Planning & Partnerships/Head of Planning and Regeneration/Development Control Manager subject to any conditions set out below:

1. Power to determine applications for certificates under Section 191 and 192 of the Planning & Compensation Act 1991.
2. Directions requiring further details, information, evidence or particulars in respect of an application for planning permission pursuant to Article 4(2) of the Town & Country Planning (Development Management Procedure) (England) Order 2010.
3. Decisions under the Town & Country Planning (Environmental Impact Assessment)(England & Wales) Regulations 1999 as to:-
 - (a) whether or not an environmental impact assessment is needed;and
 - (b) the main effects of a development which an Environmental Statement should cover
4. Determination of all applications for planning permission, listed buildings, conservation area and advertisement consents (except for major developments ++) under the relevant Acts within the constraints set out below:-
 - (a) Approval of applications which comply with existing approved statutory statements of policy and substantially comply with non-statutory policy guidelines.
 - (b) Refusal of applications which do not comply with existing approved statutory and non-statutory statements of policy.defined as
 - (i) Development of 10 or more dwellings (0.5 hectare where no numbers are given)
 - (ii) Development of buildings of 1,000 square metres floorspace or development on sites of 1 hectare or more
5. Power to decline to determine retrospective applications for planning permission under section 70C of the Town and Country Planning Act 1990.
6. In consultation with the Solicitor to the Council, authority to enter into planning obligations under Section 106 of the Town & Country Planning Act 1990 in cases where in all other respects the application falls within this Scheme of Delegation.
7. To deal with the administration of all aspects of development control matters including:
 - (a) consultation with appropriate bodies and persons in accordance with national legislation and council policy

- (b) the wording of planning conditions, planning obligations, policy reasons for approval and reasons for refusal
 - (c) preparation and signature of decision notices in respect of planning applications, listed building, conservation and advertisement consents
 - (d) the approval of or refusal to accept minor variations to submitted plans, Planning permissions, listed building consents, conservation area consents and advertisement consents
 - (e) preparation and presentation of the Councils case in the event that a planning decision made by the Council, either by the Planning Committee or through the use of delegated powers is challenged by means of an appeal
8. Determination of applications deferred by the Planning Committee which are subsequently amended such that they comply with the provisions of 4(a) above, unless the Committee specifically reserves the determination to itself.
 9. Determination of applications for variation of conditions under Section 73 of the Town & Country Planning Act 1990.
 10. Determination of applications or discharge of conditions under Section 30 of the Town & Country Planning (Development Management Procedure) (England) Order 2010.
 11. Determination of applications to extend the time limits on Planning Permissions made in accordance with the Town and County Planning (General Development) Procedure (Amendment No 3) (England) Order 2009.
 12. Determination of applications made pursuant to Section 96A of the Town and Country Planning for non material changes to planning permission in accordance with the Town and Country Planning (General Development) Procedure (Amendment No 3) (England) Order 2009.
 13. Determination of applications for prior notification relating to agricultural development pursuant to Part 6 of Schedule 2 of the Town and Country Planning General Development Order 1995.
 14. Determination of applications for prior notification relating to telecommunications development pursuant to Part 24 of Schedule 2 of the Town and Country Planning General Development Order 1995.
 15. Determination of applications for the prior notification relating to the demolition of buildings pursuant to Part 31 of Schedule 2 of the Town and Country Planning General Development Order 1995
 16. To make and confirm Tree Preservation Orders.
 17. Determination of applications for the felling, lopping or other works to trees within a Conservation Area or any trees which are subject to a Tree Preservation Order.
 18. Determination of applications under the Anti Social Behaviour Act 2003 on respect of high hedges.
 19. Determination of application for Hedgerow Removal Notices and Hedgerow Retention Notices under the Hedgerow Act 1997.

20. In consultation with the Solicitor to the Council to issue.
 - (a) stop notices and enforcement notices
 - (b) building preservation notices
 - (c) discontinuance notices in respect of advertisements
 - (d) breach of condition notices
 - (e) planning contravention notices
 - (f) Section 215 notices in respect of untidy land and buildings
 - (g) determine applications for Certificates of Lawful Use or development of Certificates of Lawfulness of Proposed Use or Development
21. To withdraw or amend a Stop Notice, Enforcement Notice, Building Preservation Notice, Breach of Condition Notice, Planning Contravention Notice or Section 215 Notice when there has been a change in circumstances.
24. Preparation and approval of conservation area character assessments.
25. Matters of mutual interest referred to the Council by adjoining authorities or the County Council when the proposed development has no adverse affect on the planning policies operating within the Borough.
26. To comment on
 - (a) proposals for the stopping up, diversion or creation of public footpaths
 - (b) changes to existing overhead power lines
 - (c) proposals for electricity sub stations
 - (d) proposals to remove public payphones
 - (e) proposals being carried out within the public highway by the Highway
27. Naming (and renaming) and numbering (and renumbering) of streets and all necessary consultation with the residents and statutory bodies in respect of this duty.
28. To carry out relevant duties and functions imposed on the Council by the Crime & Disorder Act 1998 and to apply the requirements of sections 5-7 and 17 with reference to abandoned motor vehicles and any other matters relevant to the functions of Customer & Environmental Services.

Following the 2006 Act,

- The remit of the CDRP includes anti-social behaviour and the misuse of alcohol and other substances in addition to drugs
- Minimum standards have been introduced for CDRPs
- New provisions have been brought in to strengthen information sharing

Conditions

Ward Members

The Head of Planning and Regeneration/Development Control Manager shall refer applications under Paragraph 4(a) and 4(b) above to the Planning Committee for determination where any Ward Member in which the Application Site is situated has:

- (i) set out in writing to the Planning Case Officer the detailed planning issues/concerns which s/he has in respect of the Application and
- (ii) s/he has had an official and formal discussion on such planning issues/concerns with the Development Control Manager and the issues/concerns remain unresolved. The Ward Member will be informed of the date of the meeting so that s/he can attend and speak in support of the referral.

Objections

The Head of Planning and Regeneration/Development Control Manager shall refer applications under Paragraph 4(a) and 4(b) above to the Planning Committee for determination in the event that they consider that the application raises issues of considerable public interest.

Section 5.01

Section 5.02 Council Applications

In the case of Applications made by the Council paragraphs 4(a), 8, 9, 10,11,12,16 14 and 17 shall apply unless a substantive written objection has been received on material planning grounds against the proposal and if so the Application shall be referred to the Planning Committee for determination

Appeals

Appeals submitted in respect of Planning Applications shall be copied to the relevant Ward Members and normally dealt with by the Head of Planning and Regeneration/Development Control Manager and the Democratic Services in accordance with Council Policy.

APPENDIX 3

ENVIRONMENTAL HEALTH,

COMMUNITY SAFETY, LICENSING AND REGISTRATION FUNCTIONS.

The powers and duties of the Council contained in the following Acts of Parliament are delegated to the Director Assets & Environment and to the extent set out in the right hand column.

ACT	EXTENT OF DELEGATION (Parts or Sections)
<p>1. Local Government (Miscellaneous Provisions) Acts 1976 and 1982:-</p>	<p>Powers under the following sections of the Local Government (Miscellaneous Provisions) Acts 1976 and 1982)</p> <p>(a) Securing of unoccupied premises against unauthorised entry or likely to be a danger to public health, as per Sections 29 and 30 of the Local Government (Miscellaneous Provisions) Act 1982.</p> <p>(b) Section 20 (Notice requiring provision of sanitary appliances at places of public entertainment) Local Government (Miscellaneous Provisions) Act 1976.</p> <p>(c) Section 35 (Power by notice to require removal of obstructions from private sewers) Local Government (Miscellaneous Provisions) Act 1976.</p> <p>Service of notices requiring works to be carried out, carrying out of works in default and recovery of costs and expenses in connection therewith under Local Government (Miscellaneous Provisions) Act 1976 and 1982.</p>
<p>2. Registration and Licensing – Various Acts</p>	<p>Registration of persons and premises in respect of acupuncture, tattooing and electrolysis in accordance with sections 14 and 15 of the Local (Miscellaneous Provisions) Act 1982.</p> <p>Enforcement of Parts III and V of the Food Act 1984.</p> <p>Entry into premises where it is suspected that an offence is being committed in accordance with Section 17 of the Local Government (Miscellaneous) Provisions Act 1982.</p>

<p>3. Licensing Act 2003</p>	<p>All powers under the Licensing Act 2003 which can be delegated to an officer relating to</p> <ul style="list-style-type: none"> (a) The determination of an application for a premises licence (b) The determination of an application for a provisional statement (c) The determination of an application to vary a premises licence (d) The determination of an application to vary a premises licence so as to specify a new premises supervisor (e) The determination of an application to transfer a premises licence (f) The determination of an application for review of premises licence (g) The determination of whether a club is established and conducted in good faith (h) The determination of an application for club premises certificate (i) The determination of an application to vary club premises certificate (j) The determination of an application for review of club premises certificate (k) The determination of an application by temporary event notice for a permitted temporary activity (l) The determination of an application for grant or renewal of personal licence (m) The authorisation of an officer as an “authorised person” for the purposes off the Act (n) The authorisation of an officer as an “authorised officer” for the purposes of the Act
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<p>4. Gambling Act 2005</p>	<p>All powers under the Gambling Act are to be delegated to an officer relating to:</p> <ul style="list-style-type: none"> (a) The setting of fees (b) The determination of applications for a premises licence (c) The determination of an application to vary a premises licence (d) The determination of an application for a transfer of a premises licence (e) The determination of the Pre-Instatement of a premises licence (f) The determination of an application for a provisional statement (g) The determination of a Notification of Charge of a premises licence (h) The determination of an application for a club gaming/club machine permit (i) The determination of all other notifications and permits under the Act (j) The determination of an application for the registration of a Non Commercial Society Lottery (k) Cancellation of licensed premises gaming machine permits
<p>5. Sex Establishment Licences - (Local Government (Miscellaneous Provisions) Act 1982)</p>	<ul style="list-style-type: none"> (l) Consideration of temporary and occasional use Notices (m) To exercise the role of Licensing Authority as the Responsible Authority under Part 8 of the Act, and when otherwise necessary <p>The Whole Act</p>
<p>6. Street trading consent (except the fixing of fees for consents and the designation of consent or prohibited streets) (Local Government (Miscellaneous Provisions) Act 1982)</p> <p>7. Zoo Premises - (Zoo Licensing Act 1981)</p> <p>8. Riding Establishments - (Riding Establishments Acts 1964, 1970)</p> <p>9. Breeding of Dogs - (Breeding of Dogs Act 1973)</p> <p>10. House to House Collections - (House to House Collections Act 1939)</p> <p>11. Dangerous Wild Animals - (Dangerous Wild Animals Act 1976)</p>	<p>The Whole Act</p> <p>The Whole Act</p> <p>The Whole Act</p> <p>The Whole Act</p> <p>The Whole Act</p> <p>The Whole Act</p>

<p>12. Scrap Metal Dealers - (Scrap Metal Dealers Act 1964)</p> <p>13. Pets Shops Act 1951</p> <p>14. Motor Salvage Operators – (The Motor Salvage Operators Regulations 2002 and Vehicle (Crime) Act 2001</p> <p>15. Acupuncture, tattooing, Ear-Piercing, and Electrolysis – (Local Government Miscellaneous Provisions) Act 1982 as amended by The Local Government Act 2003</p> <p>16. Public Health Act 1936</p>	<p>The Whole Act</p> <p>The Whole Act</p> <p>To accept and determine applications for registration as a Motor Salvage Operator</p> <p>To accept and determine applications for registrations as for Acupuncture, Tattooing, Ear-Piercing and Electrolysis</p> <p>Section 42 (Alteration to drainage systems of premises)</p> <p>Section 45 (Notice to repair water closets)</p> <p>Section 48 (Power to examine & test drains believed to be defective.)</p> <p>Section 50 (Overflowing or leaking Cesspools)</p>
	<p>Section 78 (Scavenging of common courts and passages)</p> <p>Section 79 (power to remove noxious matter)</p> <p>Section 83 (As amended) (Cleansing of filthy and/or verminous premises)</p> <p>Section 84 (Cleansing or destruction of filthy or verminous articles)</p> <p>Section 141 (Powers to deal with wells, tanks, cisterns etc.)</p> <p>Sections 259, 260 (Powers to deal with nuisances from ponds, pools ditches and watercourses etc)</p> <p>Section 268 (Powers to deal with nuisances from tents, vans etc.)</p>

<p>17. Public Health Act 1961</p>	<p>Section 17 (Drainage) as amended by Section 27 of the Local Government (Miscellaneous Provisions) Act 1982.</p> <p>Section 34 (Accumulation of rubbish)</p> <p>Section 74 (Pigeons)</p>
<p>18. Public Health (Control Of Disease) Act 1984</p>	<p>Section 23 (Exclusion of children from places of entertainment)</p> <p>Section 24 (Control of infected articles)</p> <p>Section 25 (Library books)</p> <p>Section 26 (Infectious matter in dustbins)</p> <p>Section 28 (Prohibition of work on premises where notifiable diseases exist)</p> <p>Section 30 (Giving of notice to owners and occupiers of houses after the recent case of notifiable disease)</p> <p>Section 34 (Disinfection of public conveyance)</p> <p>Section 41 and 42 (Common lodging houses - notifiable disease)</p> <p>Section 46 (Burial and Cremation)</p> <p>Section 51 (Canal Boats)</p>
<p>19. Provisions of the Public Health (Infectious Disease) Regulations 1968, 1974 and 1976 and subsequent regulations made.</p>	<p>The Whole Acts</p>

<p>20. Prevention of Damage by Pests Act 1949</p>	<p>Service of Notices, carrying out of works in default, recovery of reasonable expenses and exercise of powers relating to entry onto premises in accordance with Sections 4, 5, 6, 7 and 22.</p>
<p>21. Building Act 1984</p>	<p>Section 59 (Drainage of buildings)</p> <p>Section 60 (Ventilation of soil pipes)</p> <p>Section 64 (Closets in buildings)</p> <p>Section 65 (Sanitary conveniences in workplaces)</p> <p>Section 70 (Food storage accommodation)</p> <p>Section 76 (Defective Premises)</p> <p>Section 79 Ruinous and dilapidated buildings and neglected sites.</p>
<p>22. Refuse Disposal (Amenity) Act 1978</p> <p>23. Performing Animals (Regulation) Act 1925</p> <p>24. Food Safety Act 1990</p> <p>25. Health and Safety Legislation</p>	<p>The Whole Act</p> <p>The Whole Act</p> <p>The Whole Act</p> <p>Authority to act on behalf of the Council in respect of the provisions of the Health and Safety at Work etc Act 1974, the Offices, Shops and Railway Premises Act 1963 and relevant codes of practice, regulations and guidance made under these acts.</p> <p>Under the Health and Safety at Work etc Act 1974 Authority to issue instruments in writing to suitably qualified persons to act as 'Inspector' Sections 20(2), 21, 22, 25 and 39.</p> <p>Under Section 19 of the above act, authority to issue instruments in writing to suitably qualified persons to act as 'inspector' for the purposes of the Health and Safety at Work etc Act 1974 and thus the Petroleum (Regulations) Acts 1928 and 1936, Petroleum Consolidation Act 1928 and appropriate associated legislation.</p>

<p>26. Public Health Act 1961 – Section 73</p>	<p>Authority to serve notice under section 73 to require the occupier of a premise on which a fixed tank or other fixed container which has been used for the storage of petroleum spirit and is no longer used for that purpose 'to take all such steps as may be reasonably necessary to prevent danger from that container'.</p> <p>Authority to appoint and/or authorise a suitably qualified officer for the purposes of Section 73 (2), (3), (4).</p>
<p>27. Petroleum (Regulation) Acts 1928 and 1936</p>	<p>Authority to act on behalf of the Council in respect of the provisions of the Petroleum (Regulation) Acts 1928 and 1936.</p>
<p>28. Petroleum (Consolidation) Act 1928</p>	<p>Sections 1 & 2 - Authority to issue or refuse licences, with appropriate conditions for the keeping of petroleum spirit.</p>
<p>29. Petroleum (Transfer of Licences) Act 1936</p>	<p>Authority to transfer licences for the keeping of petroleum spirit, by endorsement of the licence or otherwise.</p>
<p>30. Sunday Trading Act 1994</p>	<p>The Whole Act</p>
<p>31. Safety of Sports Grounds Act 1975</p>	<p>The Whole Act</p>
<p>32. Hypnotism Act 1952</p>	<p>The Whole Act</p>
<p>33. Animal Welfare Legislation</p>	<p>The powers and functions of the Council in connection with the receipt and determination of applications and consideration of reports by Veterinary Surgeons and Practitioners, relating to the issue of licences and to approve arrangements for the retention of Veterinary Surgeons or practitioners under:</p> <p>The Riding Establishments Act 1964 and 1970</p>
	<p>The Pet Animals Act 1951 The Animal Boarding Establishments Act 1963 The Breeding of Dogs Act 1973 The Dangerous Wild Animals Act 1976 The Zoo Licensing Act 1981</p> <p>The negotiation and agreement in respect of fees under the Animal Welfare Acts (subject to fees proposed, not exceeding those recommended by the British Veterinary Association or prescribed by DEFRA).</p>

<p>34. Water Act 1989, Water Industry Act 1991</p> <p>35. Caravan Sites & Control Of Development Act 1960</p> <p>36. Scrap Metal Dealers Act 1964</p> <p>37. Control of Asbestos Regulations 2006</p>	<p>Authority to act on behalf of the Council in relation to the controls and duties over public and private water supplies under the terms of the above acts.</p> <p>The Whole Act</p> <p>(i) The powers and duties of the Council under Section 3 regarding the issue of Exemption Orders (where no special considerations arise).</p> <p>(ii) Authorisation to enter land and ascertain if the premises are being used contrary to the Scrap Metal Dealers Act 1964.</p> <p>Authority to determine notifications received under Regulation 9 of the Control of Asbestos Regulations 2006 and to agree the commencement of work before the end of the 14-day notification period.</p>
<p>38. Environmental Protection Act 1990</p>	<p>The powers and duties of the Council under Parts I, II, IIa, III, IV, VIII, IX of the Environmental Protection Act 1990.</p> <p>Authority to serve relevant notices under the provisions of part IIa of the Act in respect of contaminated land and the declaration of land as contaminated.</p> <p>Authority to appoint suitably qualified persons to act as authorised Officers/Inspectors for the purposes of the provisions of parts I, II, IIa, III, IV, VIII, IX.</p> <p>Compliance with the Council's Duty of Care in respect of waste (Section 34).</p> <p>Compliance with the Council's Duty to keep land and highways clear of litter etc. (Section 89).</p> <p>Compliance with the Councils duties under section 45 and 48 in respect of collection and disposal of household waste.</p>
<p>39. Food & Environment Protection Act 1985 (Part III) and the Control of Pesticides Regulations 1986</p>	<p>To enforce relevant provisions of the above legislation.</p>

40. Environment Act 1995	To exercise the functions and duties of the Council in respect of air quality management and contaminated land management. Authority to appoint and/or authorise suitably qualified persons in writing to exercise the powers
41. Dangerous Dogs Act 1991	under Section 108 – Powers of enforcing authorities and persons authorised by them and Section 109 – Power to deal with imminent danger of serious pollution etc. The Whole Act.
42. Noise & Statutory Nuisance Act 1993	To carry out relevant statutory functions for the purposes of this Act, in respect of vehicles, machinery and equipment noise on the highway.
43. Control of Pollution Act 1974 44. Clean Air Act 1993 45. Dogs (Fouling on Land) Act 1996 46. Noise Act 1996 47. Transport Act 1968 48. Animal Health Dogs Act 1906 Protection of Animals Act 1911 Dogs (Amendment) Act 1928 Protection of Animals (Amendment) Act 1954 Protection of Animals (Anaesthetics) Act 1954 Abandonment of Animals Act 1960 Agriculture (Miscellaneous Provisions) Act 1968 Animal Health Act 1981 Animal Health and Welfare Act 1984 Protection of Animals (Penalties) Act 1987 Protection of Animals (Amendment) Act 1988 Protection Against Cruel Tethering Act 1988 Dangerous Dogs Act 1989 Welfare of Animals at Slaughter Act 1991	Parts III and V of the Act The Whole Act The Whole Act The Whole Act Part V – to make representation on behalf of the Council to the licensing authorities in connection with the revocation, suspension or curtailment of operation licences in appropriate circumstances. As applicable to Borough Council

<p>Animal Health Act 2002 Animal Welfare Act 2006</p>	
<p>49. Company Law</p> <p>Companies Act 1985 & 2006 Companies Consolidation (Consequential Provisions) Act 1985 Business Names Act 1985 Insolvency Act 1986 Company Directors Disqualification Act 1986</p> <p>50. Consumer Credit</p> <p>Administration of Justice Act 1970 Consumer Credit Act 1974 & 2006 Law of Property (Miscellaneous Provisions) Act 1989</p> <p>51. Consumer Protection</p> <p>Consumer Protection Act 1987 Motor Vehicles (Safety Equipment for Children) Act 1991</p> <p>52. Control of Pollution</p> <p>Control of Pollution Act 1974 Environmental Protection Act 1990 Clean Air Act 1993</p> <p>53. Copyright</p> <p>Registered Designs Act 1949 Patents, Designs and Marks Act 1986 Copyright, Designs and Patents Act 1988 Broadcasting Act 1990 Trade Marks Act 1994 Olympic Symbol etc (Protection) Act 1995 Copyright, Designs, Patents and Trade Marks Act 2002 Patents Act 2004</p>	<p>As applicable to Borough Council</p>
<p>54. Explosives</p> <p>Explosives Act 1875 Explosives Act 1923 Fireworks Act 1951 Fireworks Act 1964 Explosives (Age of Purchase) Act 1976 Fireworks (Safety) Regulations 1987 Package Travel, Package Holiday and</p>	

<p>Package Tours Regulations 1992 Fireworks Act 2003 Fireworks Regulations 2004 Firework (Safety) (amendment) Regulations 2004 Manufacture and storage of Explosive Regulations 2005</p>	
<p>55. Food and Environmental Protection</p> <p>Food and Environment Protection Act 1985 Pesticides (Fees and Enforcement) Act 1989 Scotch Whiskey Act 1988 Food Safety Act 1990 Food Labelling Regulations 1996 (as amended)</p> <p>56. Hallmarking</p> <p>Hallmarking Act 1973</p> <p>57. Health and Safety</p> <p>Health and Safety at Work etc Act 1974</p> <p>58. Insurance Brokers</p> <p>Insurance Brokers (Registration) Act 1977 Insurance Companies Act 1982</p> <p>59. Medicines</p> <p>Medicines Act 1968</p> <p>60. Other Enforcement Legislation</p> <p>Children and Young Persons Act 1933 Timeshare Act 1992 Violent Crimes Reduction Act 1984 Telecommunications Act 1984 National Lottery Act 1993 & 2006 Offensive Weapons Act 1996 Children & Young Persons (Protection from Tobacco) Act 1991 Tobacco Advertising & Promotion Act 2002 Customs & Excise Management Act 1979 Sale of Goods Act 1979 (as amended) Development of Tourism Act 1969 Licensing Acts 1964 & 2003 Cancer Act 1939 Accommodation Agencies Act 1953 Trading Representations (Disabled Persons) Act 1958 Theft Act 1968</p>	<p>As applicable to Borough Council</p>

Trading Representations (Disabled Persons) Act 1972 Employment Agencies Act 1973	
61. Road Traffic Vehicles (Excise) Act 1971 Road Traffic (Foreign Vehicles) Act 1972 Road Traffic (Consequential Provisions) Act 1988 Road Traffic Act 1988 Road Traffic Offenders Act 1988 Road Traffic Act 1991	As applicable to Borough Council
62. Telecommunications Telecommunications Act 1984	
63. Trade Descriptions Trade Descriptions Act 1968 Property Misdescriptions Act 1991 64. Unsolicited Goods and Services Unsolicited Goods and Services Act 1971 Unsolicited Goods and Services (Amendment) Act 1975 65. Video Recordings Video Recording Act 1984 Video Recordings Act 1993 66. Weights and Measures Weights and Measures etc. Act 1976 Merchant Shipping Act 1979 Weights and Measures Act 1985 67. Nationality, Immigration and Asylum Act 2002 68. Refuse Disposal (Amenity) Act 1987 and the Vehicle Excise and Registration Act 1994 69. Pollution Prevention Control Act 1999	Performance and Management of Citizenship Ceremonies To authorise the removal of untaxed vehicles on an adopted highway under the devolved powers scheme of the Driver and Vehicle Licensing Agency. To carry out the relevant functions of the Council with respect to a Part A(2) Installation or mobile plant for the purpose of achieving a high level of protection of the environment by reducing emissions into the air, water and land. Authority to appoint suitable officers to exercise

	any such functions and conferring powers (such as those specified in Section 108 (4) of the Environment Act 1995) on persons so appointed.
70. Anti-Social Behaviour Act 2003	<p>Authority to authorise an environmental health officer for the purpose of exercising a statutory function in relation to pollution of the environment of harm to human health under Section 40 – closure of noisy premises.</p> <p>Authority to authorise suitable officers in writing to issue fixed penalty notices for graffiti and flyposting under Section 43.</p>
71. Clean Neighbourhoods and Environment Act 2005	Authority to authorise suitable officers for the purpose of exercising a statutory function with respect to Environmental Health, Community Safety, Licensing and Registration.
72. Control of Pollution (Amendment) Act 1989	Authority to authorise suitable officers to demand that a person produce his, or his employer's authority for transporting waste and to search any vehicle that is being, or has been used for transporting waste and to carry out tests on anything found and to take samples away for testing.
73. Housing Grants, Construction & Regeneration Act 1996 74. The Regulatory Reform (Housing Assistance) Order 2002	<p>Mandatory Grants to help with disabled facilities.</p> <p>(i) Policy for grants etc. for renewal of Private Sector Housing and Provision of discretionary disabled facilities grants.</p> <p>DFG's and HRA grants are carried out by property services who are under the Director Assets and Environment. Private Sector Housing undertake empty property grants so will need these delegations but they must also be put in appendix 3.</p>
75. Byelaws for Pleasure Grounds, Public Walks and Open Spaces 2004	Full Byelaws
76. Byelaws for Good Rule and Government 2004	Full Byelaws

APPENDIX 4

MISCELLANEOUS

The following functions are delegated to the Officer(s) named in the Authorised Officer column subject to any conditions set out below.

	FUNCTION	AUTHORISED OFFICER
	Public space for Events	Director Communities, Planning & Partnerships/ Sports Facilities Officer
1.	Town Hall Bookings of the Town Hall.	Head of Customer Services
2.	To determine appeals following the refusal of a booking of the Town Hall.	Appropriate Director
3.	Opening Hours Fixing of opening and closing dates of public buildings within control of the Council including bank and public holiday periods.	Appropriate Director
4.	Museums and Archives To determine the policy on the materials and records to be held in any archives maintained by the Council, other than those maintained for statutory or similar purposes.	Director Communities, Planning & Partnerships and Community & Leisure Manager/Heritage Service Manager
5.	Lettings of Public Buildings and Parks Arrangements for letting of public buildings/parks within control of Council to local and voluntary organisations for occasional use, in accordance with approved scales of charges and Council's general policies.	Appropriate Director
6.	General management of and authority to authorise bookings for non core activities.	Appropriate Director
	Concessionary Charges for Public Buildings/Parks	
7.	Determination of applications for concessionary charges for use of public buildings/parks within control of Council. Within established policy.	Appropriate Director

8.	<ul style="list-style-type: none"> • Corporate Complaints • Council Halls and meeting rooms • Hire of Civic Accommodation • Compensation claims (as you and I have discussed) re complaints • Telecommunications Act • Town hall, Carnegie Centre and Phil Dix Centre • Determine the appeals following the refusal of a booking of venue • Opening hours to the public • Access to buildings • Letting of public buildings • Charges applied to hire of public buildings etc • Provide services on behalf of Staffordshire County Council in relation to the administration of - Blue Badges, appointee ships, Concessionary travel, and other services 	Head of Customer Service
	<p>Child Protection</p> <p>To exercise the functions of the Council in relation to its duties as necessary to decide whether action should be taken to safeguard or promote the welfare of vulnerable adults.</p>	Solicitor to the Council and Director Communities, Planning and Partnerships

APPENDIX 5

PROPER OFFICER APPOINTMENTS

Various Acts of Parliament require certain statutory functions to be performed by an Officer specified by the council. It is open to each Council to decide which of its Officers should be designated as the "Proper Officer" for the particular function in question.

Where functions are delegated to specific named officers, the same powers and duties shall be exercised by any subsequent post which incorporates the relevant powers and duties of the post detailed below.

1. ALL DIRECTORS

Act	Function	Deputy
Local Government Act 1972 – Section 225(1)	Deposit of Documents	Appropriate Director.
Local Government (Access to Information) Act 1985, Section 100D(1)(a)	Compilation of lists of background papers in reports produced by them and production of the papers themselves.	Appropriate Director.

2. CHIEF EXECUTIVE

- (a) any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October, 1972, to the Clerk of a Council or the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council;
- (b) any reference in any local statutory provision to the Clerk of a specified Council or the Town Clerk of a specified Borough which is to be construed as a reference to the Proper Officer of the Council;
- (c) any amendment, re-enactment or statutory substitution of any of the matters detailed in these provisions insofar as an Officer of the Council remains under a duty to perform the same or similar tasks;
- (d) the following provisions;
- (e) where a "Proper Officer" function has not been specified by the Council to an Officer then in default of such appointment the Chief Executive shall be deemed to be the "Proper Officer".

In the Local Government Act 1972:

Section	Function	Authorised Officer
83	Witness and receipt of declarations of acceptance of office within 2 months of the day of election.	Chief Executive
84	Receipt of Resignation of Office.	Chief Executive

88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chair.	Chief Executive
89(1)(b)	Receipt of Notice of casual vacancy from two Local Government Electors.	Chief Executive
100 B (2)	Exclusion of confidential reports from copies of reports made open to inspection by public.	Chief Executive
100 B (2)	Circulation of reports and agenda.	Chief Executive
100 B (7)	Supply of papers to the Press.	Chief Executive
100 C (2)	Production of record of confidential proceedings (Minutes)	Chief Executive
100 F	Members' Right to Papers	Chief Executive
248	Keeping of Roll of Honorary Freemen	Chief Executive
210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to the Proper Officer.	Chief Executive
Section 234 (1) and (2)	Authentication of documents	Chief Executive /Solicitor to the Council
Schedule 12, Paragraph 4(2)(b)	Signature of summonses to attend Council meetings.	Chief Executive

The Health and Safety at Work Act 1974

Section	Function	Officer
The Whole Act	Council Operations	Chief Executive

In the Representation of the People Act 1983 and 1985

Section	Function	Officer
The Whole Act	To act as an Electoral Registration Officer	Executive Director Corporate Services
35	Returning Officer, Acting Returning Officer and Deputy Acting Returning Officer for Parliamentary, European, County, Borough & Parish Elections and National Referenda..	Executive Director Corporate Services
81	Receipt & Deposit of Election Expenses	Election Officer
82	Declarations as to Expenses	Election Officer
Schedule 2 Rule 50 Local Elections (Principal Areas)(England & Wales) Rules 2006	Receipt of Notice of Persons Elected	Election Officer
Schedule 2 Rules 52 & 54 Local Election (Principal Areas) (England & Wales) Rules 2006	Receipt, retention and disposal of election documents.	Election Officer

3. **SOLICITOR TO THE COUNCIL**

In the Local Government Act 1972:

Section	Function	Officer
229(5)	Certification of photographic copies of documents in legal proceedings.	Solicitor to the Council
236(9)	Sending of copies of Bye-Laws as required	Solicitor to the Council
238	Certification of Bye-Laws.	Solicitor to the Council
Schedule 14 Para. 25(7)	Certification of Resolution for Legal Proceedings.	Solicitor to the Council

In the Local Land Charges Act 1975:

Section	Function	Officer
The Whole Act	To act on Local Land Charges Register	Solicitor to the Council

4. EXECUTIVE DIRECTOR CORPORATE SERVICES

- (a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October, 1972, to the Treasurer of a Council or the borough Treasurer of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council;
- (b) Any reference in any local statutory provision to the Treasurer of a specified Council or the Borough Treasurer of a specified Borough which is to be construed as a reference to the Proper Officer of the Council;
- (c) Any amendment, re-enactment or statutory substitution of any of the matters detailed in these provisions insofar as an Officer of the Council remains under a duty to perform the same or similar tasks.
- (d) The following provisions, namely:-

In the Local Government Act 1972:

Section	Function	Officer
115 (2)	Receipt of money due from Officers	Executive Director Corporate Services
146(1)(a) & (b)	Declaration and Certificates with regard to securities.	Executive Director Corporate Services
151	Administration of the Council's financial affairs.	Executive Director Corporate Services (In the absence of Executive Director Corporate Services - Director of Finance

In the Local Government Finance Act 1988:

Section	Function	Officer
6	Officer responsible for financial administration of certain authorities.	Executive Director Corporate Services
114	Reports on financial administration.	Executive Director Corporate Services

5. DEPUTY DIRECTOR ASSETS AND ENVIRONMENT

(a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October, 1972, to the Chief Public Health Inspector of a Council or the Chief Public Health Inspector of a Borough which by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.

(b) Any reference in any local statutory provision to the Chief Public Health Inspector of a specified Council or the Chief Public Health Inspector of a specified Borough which is to be construed as a reference to the Proper Officer of the Council.

(c) Any amendment, re-enactment or statutory substitution of any of the matters detailed in these provisions insofar as an Officer of the council remains under a duty to perform the same or similar tasks.

The following provisions, namely:

In the Public Health Act 1936:

Section	Function	Officer
79	Power to require removal of noxious matter	Director Assets and Environment
84	Cleansing of disinfection of filthy or verminous articles.	Director Assets and Environment
85	Cleansing of verminous persons and their clothing.	Director Assets and Environment
343(1)	Definition – authorisation of officers of the local authority.	Director Assets and Environment

In the Public Health Act 1961:

Section	Function	Officer
S.17 (as amended by S.27 of the Local Government (Miscellaneous Provisions) Act 1982	Power to remedy stopped-up drains.	Director Assets & Environment
37	Prohibition of sale of verminous articles.	Director Assets & Environment

In the Public Health (Control of Diseases) Act 1984:

Section	Function	Officer
11	Cases of notifiable disease and food poisoning to be reported.	Environmental Health Officer
18	Information to be furnished by occupier in case of notifiable disease or food poisoning.	Environmental Health Officer
20	Stopping work to prevent spread of disease.	Environmental Health Officer
21	Exclusion from school	Environmental Health Officer
22	Exclusion of children from places of entertainment or assembly.	Environmental Health Officer
24	Infected articles	Environmental Health Officer
29	Letting of house or room	Environmental Health Officer
31	Disinfection of premises.	Environmental Health Officer
32	Removal of person from infected house	Environmental Health Officer
59	Authentication of documents	Environmental Health Officer

In the Rent Act 1977:

Section	Function	Officer
The Whole Act	Exercise of functions under Part IV	Director Housing and Health

In the Small Holdings & Allotments Act 1908:

Section	Function	Officer
28	Making of rules for the regulation of allotments	Director Assets & Environment
30	Recovery of rent and possession of allotments	Director Assets & Environment
1	Determination of tenancies of allotments	Director Assets & Environment

In the Housing Act 1957:

Section	Function	Officer
Part V	Service of Notices to Quit where rent is more than four weeks in arrears	Head of Landlord Services

In the Caravan Sites Act 1968:

Section	Function	Officer
2	Service of Notices to Quit	Head of Landlord Services

6. OTHER STATUTORY APPOINTMENTS

In the Local Government & Housing Act 1989:

Section	Function	Designation	Deputy
4	Head of Paid Service	Chief Executive	
5	Monitoring Officer	Solicitor to the Council	

In the Representation of the People Acts 1983 & 1985:

Section	Function	Designation	Deputy
35	Returning Officer	Executive Director Corporate Services	Chief Executive Solicitor to the Council (as appropriate)

a) In the Regulation of Investigatory Powers Act 2000

Section	Function	Designation	Administrator
28 & 29	Authorisation of covert surveillance and/or the use of covert human intelligence source including applications for judicial approval where required	Chief Executive/Executive Director Corporate Services/ Director Assets & Environment/ Director Communities, Planning & Partnerships	Solicitor to the Council

b)

In the Localism Act 2011

Section	Function	Designation	Administrator
Part 5 Chapter 3	Assets of Community Value - processes as per the policy	<ul style="list-style-type: none"> • Delegation to Solicitor of the Council with appropriate Director(s) • Appeals in relation to the above Chief Executive and Executive 	Chief Executive
Part 5 Chapter 2	Community Right to Challenge – processes as per the policy	<ul style="list-style-type: none"> • Delegation to Solicitor of the Council with appropriate Director(s) • Appeals in relation to the above Chief Executive and Executive 	Chief Executive

4 Part 4 - Rules of Procedure

Rules of Procedure

Council Procedure Rules

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ANNUAL MEETING OF THE COUNCIL

4.1 Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will elect:

- 4.1.1 a person to preside if neither the Mayor of Council or Deputy Mayor are not present;
- 4.1.2 the Mayor of Council;
- 4.1.3 the Deputy Mayor of Council;
- 4.1.4 the Leader.

4.2 Ordinary meetings

There will be at least three ordinary meetings of the Council which will take place in accordance with a programme decided at the Council's annual meeting.

The first of them will take place within no longer than five working days of the Annual meeting.

The First Ordinary Meeting will:

- 4.2.1 receive any announcements from the Mayor, Leader, Members of the Executive or the head of paid service;
- 4.2.2 receive questions from, and provide answers to, the public and Members of the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
- 4.2.3 receive a report on the appointment of the Executive and allocation of responsibilities;
- 4.2.4 receive a report on the review of the Constitution;
- 4.2.5 receive a report on the review of the Scheme of Delegation
- 4.2.6 decide which committees to establish for the municipal year;
- 4.2.7 decide the size and terms of reference for those committees;
- 4.2.8 decide the allocation of seats to political groups in accordance with the political balance rules;
- 4.2.9 receive nominations of councillors to serve on each committee; and
- 4.2.10 receive the calendar of meetings for the forthcoming municipal year

Ordinary meetings will:

- 4.2.11 elect a person to preside if the Mayor and Deputy Mayor are not present;
- 4.2.12 receive petitions presented by members of the Council and to determine the action to be taken in response to each petition;
- 4.2.13 receive questions from, and provide answers to, the public and Members of the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
- 4.2.14 approve the minutes of the last meeting;
- 4.2.15 receive any declarations of interest from members;
- 4.2.16 receive any announcements from the chairman, leader, members of the executive or the head of paid service;
- 4.2.17 receive any communications which the Mayor, the Leader, or the Head of Paid Service consider should be laid before the Council; with the permission of the Mayor members of the Council shall be given the opportunity to ask questions of the Leader and Portfolio Holders, following receipt of communications, if these specifically relate to portfolio areas;
- 4.2.18 The leader will inform Council of any changes in the membership of the Executive and champions;
- 4.2.19 deal with any business from the last Council meeting;
- 4.2.20 consider items of business referred by the Chief Executive or another officer;
- 4.2.21 receive reports from the executive and receive questions and answers on any of those reports;
- 4.2.22 consider matters referred by overview and scrutiny and any referrals from committees or sub committees
- 4.2.23 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.2.24 consider motions; and
- 4.2.25 consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees for debate.

4.3 EXTRAORDINARY MEETINGS

4.3.1 Calling extraordinary meetings.

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) the monitoring officer; and
- (d) any five members of the Council if they have signed a requisition presented to the Mayor and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4.4 **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

4.4.1 **Allocation**

As well as allocating seats on Committees and Sub-Committees, the Council may if it so decides allocate seats in the same manner for substitute Members.

4.4.2 **Number**

For each Committee or Sub-Committee, the Council may if it decides appoint one substitute in respect of each political group per Committee or Sub-Committee with the exception of the Planning Committee and Licensing Sub-Committees under the Licensing Act 2003.

4.4.3 **Powers and duties**

Substitute Members when acting will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting. If the ordinary member named in the notice given in rule 4.4 below is the Chairman of the relevant Committee, then the Vice-Chairman shall preside, or if absent, the first item of business shall be the appointment of a Chairman at the meeting.

4.5 **Substitution**

Substitution Members may attend meetings in that capacity only:

- 4.5.1 to take the place of the ordinary Member for whom they are the designated substitute and for that meeting only;
- 4.5.2 where the ordinary Member will be absent for the whole meeting;
- 4.5.3 after notifying the Chief Executive at least one working day before the commencement of the meeting of the intended substitution; and
- 4.5.4 in the event that the permanent Member attended the meeting and the notification of substitution has been received, the permanent Member would be required to leave.

The Substitution scheme shall not apply to Appointments & Staffing Committee, Audit & Governance Committee, Cabinet, Cabinet (Grants) Sub Committee, Licensing Committee and Planning Committee.

4.6 TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

4.7 NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4.8 CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Mayor.

4.9 QUORUM

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

4.10 DURATION OF MEETING

4.10.1 Interruption of the meeting

If the business of the meeting has not been concluded by 8.30 p.m., a bell will be rung and the member speaking must immediately sit down. The Mayor must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion provided no motion under rule 13 is passed.

4.10.2 Motions and recommendations not dealt with

Subject to 4.10.1 above, if there are other motions or recommendations on the agenda that have not been dealt with by 8.30 p.m., they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

4.10.3 Recorded vote

If a recorded vote is called for during this process it will be taken immediately.

4.10.4 **Motions which may be moved**

During the process set out in Rules 9.1–9.3 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

4.10.5 **Close of the meeting**

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

4.11 **QUESTIONS BY THE PUBLIC**

4.11.1 **General**

Members of the public may ask questions of members of the executive at every other ordinary meeting of the Council.

4.11.2 **Order of questions**

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions and may give preference to questions from members of the public who have asked the least number of questions previously.

4.11.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 5pm two clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

4.11.4 **Number of questions**

At any one meeting no person may submit more than two questions and no more than one such question may be asked on behalf of one organisation.

4.11.5 **Scope of questions**

The Chief Executive may reject a question if it:

- (a) is not about a matter for which the local authority has a responsibility or which affects the borough;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

4.11.6 **Record of questions**

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

4.11.7 **Asking the question at the meeting**

The Mayor will invite the questioner to put the question to the Executive member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

4.11.8 **Response by Questioner**

Following the answer by the Executive member, the questioner will be given the opportunity to respond to the answer given. The Mayor may require the questioner to cease such response if it appears to the Mayor that the response is defamatory, frivolous or offensive, or is likely to result in the disclosure of confidential or exempt information.

4.11.9 **Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

These answers will:

- (a) as soon as practicable after the meeting, such answers, whether given orally at the meeting or in writing after the meeting, shall be published on the Council website; and
- (b) any written answers provided after the meeting shall be attached to the minutes of that meeting.

4.11.10 **Reference of question to the Executive**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

4.11.11 **Time limit on questions from members of the public**

The time which the meeting spends upon dealing with questions from members of the public shall be limited to twenty minutes save that the

time permitted for dealing with questions may be extended with the approval of the meeting signified without discussion.

4.12 QUESTIONS BY MEMBERS

4.12.1 On reports of the Executive

A member of the Council may ask the Leader any question without notice upon an item of the report of the executive or a committee when that item is being received or under consideration by the Council.

4.12.2 Questions on notice at Ordinary Meetings of the Council

Subject to Rule 11.4, a member of the Council may ask:

- (a) any member in receipt of a Special Responsibility Allowance, except the Mayor and Deputy Mayor.
- (b) a question on any matter in relation to which the Council has powers or duties or which affects Tamworth

No members may ask more than two questions at any meeting of the Council

Questions by members will not be permitted at the Annual Meeting, the State of Tamworth Debate meeting or Extraordinary Meetings

4.13 Notice of questions

A member may only ask a question under Rule 11.2 if either:

- 4.13.1 they have given at least two clear working days notice in writing of the question to the Chief Executive; or
- 4.13.2 the question relates to urgent matters, they have the consent of the member of the Executive or other member in receipt of a Special Responsibility Allowance to whom the question is to be put and the content of the question is given to the Chief Executive by 10.00 a.m. on the day of the meeting.

4.14 Response

An answer may take the form of:

- 4.14.1 a direct oral answer;
- 4.14.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- 4.14.3 where the reply cannot conveniently be given orally, a written answer circulated later to the questioner;
- 4.14.4 as soon as practicable after the meeting, such answers, whether given orally at the meeting or in writing after the meeting, shall be published on the Council website; and

- 4.14.5 any written answers provided after the meeting shall be attached to the minutes of that meeting.

Supplementary question

A member asking a question under Rule 11.2 or 11.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

4.15 MOTIONS ON NOTICE

4.15.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least five members, must be delivered to the Chief Executive not later than seven clear working days before the date of the meeting. These will be entered in a book open to public inspection.

4.15.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

4.15.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect Tamworth. Motions must not be defamatory, unlawful, frivolous or offensive; and must not require the likely disclosure of confidential or exempt information. If it appears to the Chief Executive that the motion falls into these categories s/he will refer the matter to the Mayor who will rule on whether or not the motions can be considered.

4.15.4 MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved, where the Mayor or Deputy Mayor are absent;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;

- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 8.30 p.m. in duration provided rule 9.1 has not been passed;
- (n) to suspend a particular council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

4.16 RULES OF DEBATE

4.16.1 **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

4.16.2 **Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

4.16.3 **Secunder's speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

4.16.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed ten minutes without the consent of the Mayor.

4.16.5 **When a member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;

- (b) to move a further amendment if the motion has been amended since s/he last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

4.16.6 **Amendments to motions**

An amendment to a motion must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words;

as long as the effect of (ii) to (iv) is not to negate the motion.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

4.16.7 **Alteration of motion**

- (a) A member may alter a motion of which s/he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which s/he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

- (c) Only alterations which could be made as an amendment may be made.

4.16.8 **Withdrawal of motion**

A member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

4.16.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

4.16.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

4.16.11 **Closure motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
- to proceed to the next business;
 - that the question be now put;
 - to adjourn a debate; or

- to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
 - (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.
 - (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

4.16.12 **Point of order**

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the Mayor on the matter will be final.

4.16.13 **Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

4.16.14 **Single Issue Debate Meetings**

With regard to Single Issue Debate meetings, there will be no more than two of these meetings a year. No member will be allowed to speak for longer than 5 minutes with each group speaking in turn. Once each Member of the minority group has spoken, the order for speech to be determined by each Member indicating to the Mayor.

4.17 **STATE OF TAMWORTH DEBATE**

4.17.1 **Calling of debate**

The Leader will call a state of Tamworth debate annually to be held during the latter part of September and in a form to be agreed with the Mayor.

4.17.2 **Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include

holding conferences, debating forums, "Question Time", workshops and other events prior to or during the state of Tamworth debate.

4.17.3 Chairing of debate

The debate will be chaired by the Mayor.

4.17.4 Results of debate

The results of the debate will be:

- (a) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.
- (c) used to inform the Overview and Scrutiny committees of suggested areas for their work programme.

4.18 PREVIOUS DECISIONS AND MOTIONS

4.18.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least two members.

4.18.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least two members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.19 VOTING

4.19.1 Majority

Unless the legislation provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

4.19.2 Mayor's casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

4.19.3 Show of hands

Unless a recorded vote is demanded under Rule 17.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

4.19.4 Recorded vote

If five members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

4.19.5 Right to require individual vote to be recorded

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

4.19.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

4.20 MINUTES

4.20.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The 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.

4.20.2 No requirement to sign minutes of previous meeting at extraordinary meeting

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(1) and (2) of schedule 12 relating to signing of minutes.

4.20.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

4.21 RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

4.22 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

4.23 MEMBERS' CONDUCT

4.23.1 Standing to speak

When a member speaks at full Council they must stand – unless disabled from doing so-and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

4.23.2 Mayor standing

When the Mayor stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

4.23.3 Member not to be heard further

If a member persistently disregards the ruling of the Mayor by behaving, in the opinion of the Mayor, improperly or offensively or deliberately obstructs business, the Mayor may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

4.23.4 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Mayor may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

4.23.5 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as s/he thinks necessary.

4.23.6 Disclosable pecuniary interests

A member with a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 who is prohibited from participating in any discussion of any matter at a meeting or prohibited from participating in any vote, or further vote taken on the matter at the meeting will be excluded from that part of any meeting at which that matter is under consideration unless the member has been granted a dispensation.

A member so excluded shall withdraw from the meeting and shall not remain in the room in which the meeting is taking place or remain in any part of the room reserved for members of the public.

4.24 DISTURBANCE BY PUBLIC

4.24.1 Removal of member of the public

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

4.24.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

4.25 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

4.25.1 Suspension

All of these Council Rules of Procedure except Rule 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

4.25.2 Amendment

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

4.26 APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the executive. The rules which apply to meetings of Committees and Sub-Committees are identified within the Committee Rules of Procedure.

SCHEDULE 1 - COMMITTEE RULES OF PROCEDURE

1 APPLICATION

The Committee Rules of Procedure shall apply to meetings of Committees and Sub – Committee not being full Council or meetings of the executive. All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the executive.

2 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

2.1 Allocation

As well as allocating seats on Committees and Sub-Committees, the Council may if it so decides allocate seats in the same manner for substitute Members.

2.2 Number

For each Committee or Sub-Committee, the Council may if it decides appoint one substitute in respect of each political group per Committee or Sub-Committee with the exception of the Planning Committee and Licensing Sub-Committees under the Licensing Act 2003.

2.3 Powers and duties

Substitute members when acting will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting. If the ordinary member named in the notice given in rule 2.4 below is the Chairman of the relevant Committee, then the Vice-Chairman shall preside, or if absent, the first item of business shall be the appointment of a Chairman at the meeting.

2.4 Substitution

Substitute members may attend meetings in that capacity only:

- 2.4.1 to take the place of the ordinary member for whom they are the designated substitute and for that meeting only;
- 2.4.2 where the ordinary member will be absent for the whole meeting;
- 2.4.3 after notifying the Chief Executive at least one working day before the commencement of the meeting of the intended substitution; and
- 2.4.4 in the event that the permanent member attended the meeting and the notification of substitution has been received, the permanent Member would be required to leave.

The Substitution scheme shall not apply to Appointments & Staffing Committee, Audit & Governance Committee, Licensing Committee and Planning Committee.

3 TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

4 NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Committee or Sub-Committee or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

5 CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. .

6 QUORUM

The quorum of a meeting will be one quarter of the whole number of the Committee or Sub Committee members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

7 DURATION OF MEETING

7.1 Interruption of the meeting

If the business of the meeting has not been concluded by 8.30 p.m., a bell will be rung and the member speaking must immediately sit down. The Chairman must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion provided no motion under rule 9 is passed.

7.2 Motions and recommendations not dealt with

Subject to 7.1 above, if there are other motions or recommendations on the agenda that have not been dealt with by 8.30 p.m., they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

7.3 Recorded vote

If a recorded vote is called for during this process it will be taken immediately.

7.4 Motions which may be moved

During the process set out in Rules 7.1–7.3 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

7.5 Close of the meeting

When all motions and recommendations have been dealt with, the Chairman will declare the meeting closed.

8 MOTIONS ON NOTICE

8.1 Notice

Except for motions which can be moved without notice under Rule 9, written notice of every motion, signed by at least five members, must be delivered to the Chief Executive not later than seven clear working days before the date of the meeting. These will be entered in a book open to public inspection.

8.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

8.3 Scope

Motions must be about matters for which the Committee or Sub Committee has a responsibility or which affect Tamworth. Motions must not be defamatory, unlawful, frivolous or offensive; and must not require the likely disclosure of confidential or exempt information. If it appears to the Chief Executive that the motion falls into these categories s/he will refer the matter to the Chairman who will rule on whether or not the motions can be considered.

8.4 Motion to remove the Chairman

A motion to remove the Chairman can only be moved by giving written notice. A written notice of a motion to remove the Chairman must be signed by at least [five] members and must be delivered to the Chief Executive not later than seven clear working days before the date of the meeting. These will be entered in a book open to public inspection. Rules 8.2 and 8.3 shall apply to a motion moved under rule 8.4.

9 MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- 9.1.1 to appoint a chairman of the meeting at which the motion is moved where the existing Chairman or Deputy Chairman are absent;
- 9.1.2 in relation to the accuracy of the minutes;
- 9.1.3 to change the order of business in the agenda;
- 9.1.4 to refer something to an appropriate body or individual;
- 9.1.5 to appoint a committee or member arising from an item on the summons for the meeting;
- 9.1.6 to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- 9.1.7 to withdraw a motion;

- 9.1.8 to amend a motion;
- 9.1.9 to proceed to the next business;
- 9.1.10 that the question be now put;
- 9.1.11 to adjourn a debate;
- 9.1.12 to adjourn a meeting;
- 9.1.13 that the meeting continue beyond 8.30 p.m. in duration provided rule 7.1 has not been passed;
- 9.1.14 to suspend a particular Committee rule of procedure;
- 9.1.15 to exclude the public and press in accordance with the Access to Information Rules;
- 9.1.16 to not hear further a member named under Rule 17.3 or to exclude them from the meeting under Rule 17.4 and

10 RULES OF DEBATE

10.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

10.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

10.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

10.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed ten minutes without the consent of the Chairman.

10.5 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- 10.5.1 to speak once on an amendment moved by another member;
- 10.5.2 to move a further amendment if the motion has been amended since s/he last spoke;

- 10.5.3 if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- 10.5.4 in exercise of a right of reply;
- 10.5.5 on a point of order; and
- 10.5.6 by way of personal explanation.

10.6 Amendments to motions

An amendment to a motion must be relevant to the motion and will either be:

- 10.6.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;
- 10.6.2 to leave out words;
- 10.6.3 to leave out words and insert or add others; or
- 10.6.4 to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

10.7 Alteration of motion

A member may alter a motion of which s/he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

A member may alter a motion which s/he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

Only alterations which could be made as an amendment may be made.

10.8 Withdrawal of motion

A member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without

discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

10.9 Right of reply

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

The mover of the amendment has no right of reply to the debate on his or her amendment.

10.10 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- 10.10.1 to withdraw a motion;
- 10.10.2 to amend a motion;
- 10.10.3 to proceed to the next business;
- 10.10.4 that the question be now put;
- 10.10.5 to adjourn a debate;
- 10.10.6 to adjourn a meeting;
- 10.10.7 to exclude the public and press in accordance with the Access to Information Rules; and
- 10.10.8 to not hear further a member named under Rule 17.3 or to exclude them from the meeting under Rule 17.4.

10.11 Closure motions

A member may move, without comment, the following motions at the end of a speech of another member:

- 10.11.1 to proceed to the next business;
- 10.11.2 that the question be now put;
- 10.11.3 to adjourn a debate; or
- 10.11.4 to adjourn a meeting.

If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.

If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

10.12 Point of order

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Committee Rules of Procedure or the law. The member must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the Chairman on the matter will be final.

10.13 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

11 PREVIOUS DECISIONS AND MOTIONS

11.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Committee or Sub - Committee within the past six months cannot be moved unless the notice of motion is signed by at least two members.

11.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least two members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

12 VOTING

12.1 Majority

Unless the legislation provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

12.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

12.3 Show of hands

Unless a recorded vote is demanded under Rule 12.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

12.4 Recorded vote

If five members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

12.5 Right to require individual vote to be recorded

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

12.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

13 MINUTES

13.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman 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.

13.2 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

14 DISTURBANCE BY PUBLIC

14.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

14.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

15 RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

16 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 14 (Disturbance by Public).

17 MEMBERS' CONDUCT

17.1 Standing to speak

When a member speaks at Committee or Sub-Committee they must stand – unless disabled from doing so-and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

17.2 Chairman standing

When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

17.3 Member not to be heard further

If a member persistently disregards the ruling of the Chairman by behaving, in the opinion of the Chairman, improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

17.4 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

17.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as s/he thinks necessary.

17.6 Disclosable pecuniary interests

A member with a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 who is prohibited from participating in any discussion of any matter at a meeting or prohibited from participating in any vote, or further vote taken on the matter at the meeting will be excluded from that part of any meeting at which that matter is under consideration unless the member has been granted a dispensation.

A member so excluded shall withdraw from the meeting and shall not remain in the room in which the meeting is taking place or remain in any part of the room reserved for members of the public.

18 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

18.1 Suspension

All of these Committee Rules of Procedure except Rules 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

18.2 Amendment

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

SCHEDULE 2 - ACCESS TO INFORMATION PROCEDURE RULES

These rules implement the requirements of Sections 100 A – K at Schedule 12A of the Local Government Act 1972; Section 9G and 1GA of the Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012.

1 SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees and Regulatory Committees (together called meetings). Rules 12 – 16 apply to meetings of the Executive.

2 ADDITIONAL RIGHTS TO INFORMATION

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

3 RIGHTS TO ATTEND MEETINGS

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

4 NOTICES OF MEETING

The council will give at least five clear days notice of any meeting by posting details of the meeting at its main offices.

5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at its main offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6 SUPPLY OF COPIES

The Council will supply copies of:

- 6.1** any agenda and reports which are open to public inspection;
- 6.2** any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.3** if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

7 ACCESS TO MINUTES ETC AFTER THE MEETING

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

- 7.1 the minutes of the meeting or records of decisions taken, together with reasons, any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 7.2 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;
- 7.3 the agenda for the meeting; and
- 7.4 reports relating to items when the meeting was open to the public.

8 BACKGROUND PAPERS

8.1 List of background papers

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- 8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and
- 8.1.2 which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

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

9 SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ.

10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following 10 categories (subject to any condition):

PART 1

DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

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

PART 2

QUALIFICATIONS: ENGLAND

8	Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under
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	<p>(a) the Companies Acts (as defined in section 2 of the Companies Act 2006);</p> <p>(b) the Friendly Societies Act 1974</p> <p>(c) the Friendly Societies Act 1992;</p> <p>(d) the Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) the Building Societies Act 1986; or</p> <p>(f) the Charities Act 1993.</p>
9	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.
10	<p>Information which</p> <p>(a) falls within any of paragraphs 1 to 7 above; and</p> <p>(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is 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.</p>

11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12 EXECUTIVE MEETINGS

12.1 Notice of Private Meetings of the Executive

When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its committees a notice of intention to hold a meeting in private will be published on the Council's website at least 28 clear days before the date of the private meeting. The notice will also be made available at the Council offices. The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

At least five days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the

reasons why the meeting is to be held in private, details of any representations made about holding the meeting in public, and the response to those representations.

12.2 Urgent Private Meetings of the Executive

If the urgency of a decision makes compliance with rule 12.01 impracticable, the decision maker or decision making body will seek agreement from the Chairman of the relevant Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chairman of the Overview and Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council's website and made available at the Council offices setting out why the meeting is urgent and cannot reasonably be deferred.

13 PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

- 13.1** a Notice (called here a Key Decision Notice) has been published in connection with the matter in question;
- 13.2** at least 28 clear days before the date when the decision is to be taken; and
- 13.3** where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 47 (notice of and summons to meetings).

14 THE FORWARD PLAN

14.1 Period of forward plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Content of forward plan

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by 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 Key Decision Notice will contain details of:

- 14.2.1** the matter in respect of which a decision is to be made;
- 14.2.2** where the decision taker is an individual, his/her name and, title, if any and where the decision taker is a body, its name and details of membership;

- 14.2.3 the date on which, or the period within which, the decision will be taken;
- (a) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - (b) the means by which any such consultation is proposed to be undertaken;
 - (c) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
 - (d) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- 14.2.4 The forward plan will be published at least 14 days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:
- (a) that key decisions are to be taken on behalf of the Council;
 - (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
 - (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
 - (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices; a list of the documents submitted to the decision taker for consideration in relation to the matter and how to obtain copies of such documents;
 - (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decision on the plan;
 - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
 - (g) a statement that other documents may be taken into account by the decision taker and how to obtain copies of any such documents;
 - (h) the procedure for requesting details of documents (if any) as they become available; and
 - (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.
- 14.2.5 Exempt information need not be included in a forward plan and confidential information cannot be included.

15 GENERAL EXCEPTION – URGENT BUSINESS

15.1 Subject to Rule 16, where a matter which is a Key Decision requires an urgent decision and the required 28 days notice has not been given, the decision may still be taken if:

- 15.1.1 the Chairman of the Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee, has been informed by notice in writing of the matter about which the decision is to be made;
- 15.1.2 a Key Decision Notice has been published and made available for inspection by the public; and
- 15.1.3 five clear days have elapsed following the day on which the Key Decision Notice was published and made available.

16 SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice, or, in the absence of the Mayor, the agreement of the Deputy Mayor.

17 REPORT TO COUNCIL

17.1 When an overview and scrutiny committee can require a report

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- 17.1.1 included in the forward plan; or
- 17.1.2 the subject of the general exception procedure; or
- 17.1.3 the subject of an agreement with a relevant overview and scrutiny committee chairman, or the chairman/vice chairman of the Council under Rule 16;

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

17.2 Executive's report to Council

The 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 Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (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.

18 RECORD OF DECISIONS

After any meeting of the executive or any of its committees, whether held in public or private, the Chief Executive or monitoring officer or person acting on their behalf will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private in accordance with the requirements of the legislation.

20 NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

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

21 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

21.1 All members of the executive will be served notice of all private meetings of committees of the executive, whether or not they are members of that committee.

21.2 All members of the executive are entitled to attend a private meeting of an executive committee although they may not speak unless the members of the committee/sub-committee agree.

21.3 Notice of private meetings of the executive and its committees will be served on the chairmen of all overview and scrutiny committees and sub-committees, at the same time as notice is served on members of the executive. Where an overview and scrutiny committee does not have a chairman, the notice will be served on all the members of that committee.

21.4 Where a matter under consideration at a private meeting of the executive, or a committee of it, is within the remit of an overview and scrutiny committee/sub-committee, the chairman of that committee or in his/her absence the vice chairman may attend that private meeting with the consent of the person presiding, though not speak unless those present agree.

21.5 The head of the paid service, the monitoring officer and the chief financial officer, and their nominees are entitled to attend any meeting of the executive and its committees.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

22 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

22.1 Reports intended to be taken into account

Where an individual member of the executive 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 three clear days after receipt of that report.

22.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chairman of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

22.3 Record of individual decision

[]

22.4 Nature of rights

These rights of a member are additional to any other right s/he may have.

22.5 Rights of Members to attend meetings when exempt information is being considered

All Members are entitled to attend a meeting of the Council or its committees or sub committees, where they are not an ordinary member, when exempt information is being considered. Exceptions to this entitlement will be made at the discretion of the respective Chairman and/or the Chief Executive or the Solicitor to the Council and Monitoring Officer depending on the nature of the exempt information, for example staffing issues, licensing appeals and standards and ethics issues.

23 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 Material relating to business to be transacted at a public meeting of the Executive

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting, and any such document must be available for inspection for at least five clear days before the meeting.

23.2 Other Material relating to business transacted

All members of the Council will be entitled to inspect any document which is in the possession or under the control of Executive and contains material relating to any business transacted at a private meeting of Executive, or any decision made by an individual Executive member or an officer, within 24 hours after the meeting concludes or after the decision has been made.

23.3 Exceptions

However, a document is not required to be available for inspection under Rule 23.1 or 23.2 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of contract negotiations), or paragraph 6 of Schedule 12A. A document is not required to be available for inspection if advice provided by a political adviser or assistant would be disclosed.

23.4 Nature of Rights

These rights of a member are additional to any other right they may have in statute or at common law.

24 OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS

24.1 Within 10 clear days of so requesting, an Overview and Scrutiny Committee or any member of the Overview and Scrutiny Committees (including task groups) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- 24.1.1 any business that has been transacted at a meeting of a decision-making body of the Council;
- 24.1.2 any decision that has been made by an individual Executive Member in accordance with executive arrangements; or
- 24.1.3 any decision that has been made by an officer of the Council in accordance with executive arrangements except for documents, or parts of documents, which contain:
 - (a) advice provided by a political adviser; or
 - (b) exempt or confidential information, unless that information is relevant to:
 - (i) an action or decision that the Member is reviewing or scrutinising; or
 - (ii) any review contained in the work programme of the Overview and Scrutiny Committee.

Overview and Scrutiny will not be entitled to any document which is in draft form.

Where the Executive determines that a member of an Overview and Scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in (a) or (b) above, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

SCHEDULE 3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1 The framework for executive decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the executive to implement it.

2 Process for developing the framework

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

- 2.1** Not less than four months before a plan/strategy/budget forming a constituent element of the budget and policy framework needs to be adopted, the executive will publish initial proposals for the plan/strategy/budget, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Details of the executive's consultation process shall be included in relation to each of these matters in the forward plan and made available on the Council's web page. Any representations made to the executive shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where an overview and scrutiny committee has carried out a review of policy, then the outcome of that review will be reported to the executive and considered in the preparation of initial proposals.
- 2.2** The executive's initial proposals shall be referred to the relevant overview and scrutiny committee for further advice and consideration. The proposals will be referred by sending a copy to the Chief Executive who will forward them to the chairman of the relevant overview and scrutiny committee. If there is no such chairman, a copy must be sent to every member of that committee. The overview and scrutiny committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the executive. The overview and scrutiny committee shall report to the executive on the outcome of its deliberations. The overview and scrutiny committee shall have six weeks to respond to the initial proposals of the executive unless the executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the overview and scrutiny committee of the time for response when the proposals are referred to it.
- 2.3** Having considered the report of the overview and scrutiny committee, the executive, if it considers it appropriate, may amend its proposals before submitting them to the council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the overview and scrutiny committee.
- 2.4** The Council will consider the proposals of the executive and may adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the executive's proposals and any report from any relevant overview and scrutiny committee.
- 2.5** The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately if the Council accepts the executive's proposals without amendment or if the executive's proposals are not accepted without amendment, that the Council's decision will become effective on

the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.

- 2.6 If the Leader objects to the decision of the Council, s/he shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- 2.7 The Council meeting must take place within ten working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- 2.8 The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- 2.9 In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

3 Decisions outside the budget or policy framework

Subject to the provisions of paragraph 5 (virement) the executive, committees of the executive, individual members of the executive and any officers, or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 4 below.

If the executive, committees of the executive, individual members of the executive and any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4 Urgent decisions outside the budget or policy framework

The Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements 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 approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- 4.1 if it is not practical to convene a quorate meeting of the full Council; and

- 4.2** if the chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

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

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

5 Virement

Steps taken by the executive, a committee of the executive an individual member of the executive or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head as determined by the Council. There will be no limit on the number of occasions when virement across budget heads may take place. However the cumulative value of virements within one budget head shall not exceed £50,000. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

6 In-year changes to policy framework

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

- 6.1** necessary to ensure compliance with the law, ministerial direction or government guidance;
- 6.2** in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

7 Call-in of decisions outside the budget or policy framework

Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget, then it shall seek advice from the monitoring officer and chief financial officer.

In respect of functions which are the responsibility of the executive, the monitoring officer's report and chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and the chief financial officer is that the decision is or

would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and the chief financial officer. The Council may either:

7.1 endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework.

Or

7.2 amend the council's budget or policy framework to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect.

Or

7.3 where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter.

SCHEDULE 4 - EXECUTIVE PROCEDURE RULES

1 Persons making executive decisions

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- 1.1** the executive as a whole;
- 1.2** a committee of the executive;
- 1.3** an individual member of the executive;
- 1.4** an officer;
- 1.5** an area committee;
- 1.6** joint arrangements; or
- 1.7** another local authority.

2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming municipal year:

- 2.1** the names, addresses and wards of the people appointed to the executive by the Leader;
- 2.2** the name of the Executive member who will serve as Deputy Leader;
- 2.3** the nature of the position to be held by each Executive Member;
- 2.4** the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- 2.5** the terms of reference and constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- 2.6** the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- 2.7** the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made;
- 2.8** In an election year the document referral to paragraph 1.2 may be presented by the member to the high Council meeting following the Annual Meeting, which may be a special meeting convened for that purpose.

3 Sub-delegation of executive functions

Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to joint arrangements or an officer.

Unless the Council directs otherwise, if the Leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.

Unless the Leader directs otherwise, a committee of the executive to whom functions have been delegated by the Leader may delegate further to an officer.

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

4 The Council's scheme of delegation and executive functions

Subject to (b) below 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 in Article 7 and set out in Part 3 of this Constitution.

If the Leader is able to decide whether to delegate executive functions, s/he may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when s/he has served it on its chairman.

5 Conflicts of Interest

Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

6 Executive meetings

The executive will meet every three weeks commencing at 6.00 p.m. at Marmion House or at such other times and place as it shall from time to time agree.

7 Quorum

The quorum for a meeting of the executive, or a committee of it, shall be one quarter of the total number of members of the executive (including the Leader), or three for the purposes of which the Leader will be included, whichever is the larger.

8 Decisions to be taken by the executive

Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

The executive are to reply to recommendations accepted from Full Council or the Scrutiny Committees within a 3 month period

9 Person presiding

If the Leader is present s/he will preside. In his/her absence, then a person appointed to do so by those present shall preside.

10 Business

At each meeting of the executive the following business will be conducted:

- 10.1** consideration of the minutes of the last meeting;
- 10.2** declarations of interest, if any;
- 10.3** matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- 10.5** consideration of reports from overview and scrutiny committees; and
- 10.6** matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

11 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

12 Placing items on the executive agenda

The Leader may put on the agenda of any executive meeting any matter which s/he wishes, whether or not authority has been delegated to the executive, a committee of it or

any member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.

Any member of the executive may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the executive for consideration. If s/he receives such a request the Chief Executive will comply.

The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the executive where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the executive. However, there may only be up to two such items on any one agenda.

There will be a standing item on the agenda of each meeting of the executive for matters referred by overview and scrutiny committees. However there may only be up to two such items per executive meeting.

Any member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend and may be invited to speak at the meeting, whether or not it is a public meeting. However, there may only be up to two such items per executive meeting.

The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, monitoring officer and chief financial officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

SCHEDULE 5 - OVERVIEW AND SCRUTINY PROCEDURE RULES

1 The Council will have the overview and scrutiny committees and sub-committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

2 The terms of reference of the overview and scrutiny committees and sub-committees will be as set out in Article 6.

3 All councillors except members of the executive may be members of an overview and scrutiny committee or sub-committee. However, no member may be involved in scrutinising a decision which s/he has been directly involved.

4 Each overview and scrutiny committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

5 Meetings of the overview and scrutiny committees

There shall be at least four ordinary meetings of each overview and scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny committee or sub-committee meeting may be called by the chairman of the relevant overview and scrutiny committee or sub-committee, by any three members of the committee or by the Chief Executive if s/he considers it necessary or appropriate.

6 Quorum

The quorum for an overview and scrutiny committee or sub-committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

7 Chairmen of Scrutiny Committees

Chairmen of overview and scrutiny committees/sub-committees will be drawn from among the councillors sitting on the committee/sub-committee, and subject to this requirement the committee/sub-committee may appoint such a person as it considers appropriate as chairman.

8 Work programme

The overview and scrutiny committees/sub-committees will subject to the requirements of any Scrutiny Co-ordinating Committee be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

9 Questions by Members of the Public

Members of the public may ask questions at meetings of Overview and Scrutiny committees.

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the relevant office by no later than midday two clear working days before the day of the meeting. Each question must give the name and address of the questioner.

One supplementary question may be asked by the questioner to clarify any matter raised in the original response.

Overview and Scrutiny committees may co-opt members to its meetings to provide advice and information on specific points as required.

10 Agenda items

Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Chief Executive that s/he wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

The overview and scrutiny committees and sub-committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the executive to review particular areas of Council activity. Where they do so, the overview and scrutiny committee or sub-committees shall report their findings and any recommendations back to the executive and/or Council. The Council and/or the executive shall consider the report of the overview and scrutiny committee or sub-committee within one month of receiving it.

11 Policy review and development

The role of the overview and scrutiny committees and sub-committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, overview and scrutiny committees and sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.

Overview and scrutiny committees and sub-committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

12 Reports from overview and scrutiny committee

Once it has formed recommendations on proposals for development, overview and scrutiny committees and sub-committees will prepare a formal report and submit it to the Chief Executive for consideration by the executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

If an overview and scrutiny committee or sub-committee cannot agree on one single final report to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.

The Council or executive shall consider the report of the overview and scrutiny committee or sub-committee within one month of it being submitted to the Chief Executive.

13 Meetings of Executive

The agenda for executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees and sub-committees referred to the executive shall be included at this point in the agenda (unless they have been considered in the context of the executive's deliberations on a substantive item on the agenda) within two months of the overview and scrutiny committee or sub-committee completing its report/recommendations.

Only one report every six months period may be submitted by each overview and scrutiny committee or sub-committee to the executive.

Overview and scrutiny committees and sub-committees will in any event have access to the executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee or sub-committee following a consideration of possible policy/service developments, the committee or sub-committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

14 Rights of overview and scrutiny committee and sub-committee members to documents

In addition to their rights as councillors, members of overview and scrutiny committees and sub-committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

Nothing in this paragraph prevents more detailed liaison between the executive and overview and scrutiny committee and sub-committees as appropriate depending on the particular matter under consideration.

15 Members and officers giving account

Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:

15.1 any particular decision or series of decisions;

15.2 the extent to which the actions taken implement Council policy; and/or

15.3 their performance.

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

Where any member or officer is required to attend an overview and scrutiny committee or sub-committee under this provision, the chairman of that committee or sub-committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least three working days' notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the committee or

sub-committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee or sub-committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of 15 working days from the date of the original request.

16 Attendance by others

An overview and scrutiny committee or sub-committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

17 Call-in

Call-in should only be used in exceptional circumstances. These are where members of the appropriate overview and scrutiny committee or sub-committee have evidence which suggest that the executive did not take the decision in accordance with the principles set out in Article 11 (Decision Making).

When a decision is made by the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within five working days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of seven working days after the publication of the decision, unless an overview and scrutiny committee or sub-committee calls it in.

During that period, the Chief Executive shall call-in a decision for scrutiny by the committee or sub-committee if so requested in writing or by email by the chairman or any two members of the committee or sub-committee, and shall then notify the decision-taker of the call-in. Such request shall provide specific details for the reason for call-in together with the areas requested to be examined. The Chief Executive in consultation with the Solicitor to the Council & Monitoring Officer shall have the right to require such requests if they are frivolous, unsubstantial or repetitious. S/he shall call a meeting of the committee or sub-committee on such date as s/he may determine, where possible after consultation with the chairman of the committee or sub-committee, and in any case within seven working days of the decision to call-in. The relevant Portfolio holder from the Executive shall attend the Overview & Scrutiny Committee to assist that committee in considering the call-in item.

If, having considered the decision, the overview and scrutiny committee or sub-committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further seven working days, amending the decision or not, before adopting a final decision. If the matter

is referred to Council, a meeting of the Council shall be convened within seven working days.

If following an objection to the decision, the overview and scrutiny committee or sub-committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further seven working day period, whichever is the earlier.

If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

EXCEPTIONS

CALL-IN AND URGENCY

The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would for example – seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor the Deputy Mayor's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

18 The party whip

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

19 Procedure at overview and scrutiny committee and sub-committee meetings

Overview and scrutiny committees and sub-committees shall consider the following business:

- 19.1** minutes of the last meeting;
- 19.2** declarations of interest (including whipping declarations);
- 19.3** consideration of any matter referred to the committee or sub-committee for a decision in relation to call in of a decision;
- 19.4** responses of the executive to reports of the overview and scrutiny committee or sub-committee; and
- 19.5** the business otherwise set out on the agenda for the meeting.

Where the overview and scrutiny committee or sub-committee conducts investigations (e.g. with a view to policy development), the committee or sub-committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- 19.6** that the investigation be conducted fairly and all members of the committee or sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- 19.7** that those assisting the committee or sub-committee by giving evidence be treated with respect and courtesy; and
- 19.8** that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

Following any investigation or review, the committee or sub-committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

20 Matters within the remit of more than one overview and scrutiny committee

Where a matter for consideration by an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committees, the decision as to which overview and scrutiny committee will consider it will be resolved by agreement between the chairman at the overview and scrutiny committee.

SCHEDULE 6 - FINANCIAL PROCEDURE RULES

- 1** All employees and all Members must at all times when engaged on Council activities act in the interests of the Council as a whole.
- 2** All employees and all Members must comply at all times with these regulations wherever they apply.
- 3** All employees and all Members must act reasonably and within the spirit of the financial regulation framework.

All relevant financial interests must be declared to the Monitoring Officer.

All activities must be in accordance with:

- 3.1** legislation;
- 3.2** approved service plans or corporate plans;
- 3.3** approved service net revenue budgets or capital programmes;
- 3.4** relevant Council policies and adopted codes of practice.

Any material departures (actual or potential) must be reported formally to Members as soon as practicable.

Where practicable all activities should be in accordance with accepted best practice.

Best value and value for money must be sought in all activities, including the procurement of goods and services

Budgets at an appropriate level of detail must be prepared by the start of each financial year for all activities and units of the Council.

Material changes to financial policy or the distribution of resources must be referred to Cabinet for approval.

Service managers have primary responsibility for the control and management of all resources of all kinds made available to them.

All managers must ensure and regularly check that there is a full set of controls in every system under their management, including an adequate segregation of duties and an assessment of risk in all activities and decisions.

All employees must consider the need to seek appropriate views, advice and guidance before embarking on a course of action and particularly on a new course of action. This includes seeking advice from managers in other services, for example consulting the IS Manager on the procurement of information technology or the Accountancy Manager on the arrangement of leases.

All managers must ensure that all assets and personnel must be adequately secured or protected and appropriate insurance arranged where necessary.

Adequate records must be maintained of all transactions in all systems (a complete audit trail) and unrestricted access must be allowed to all assets and records for:

- 3.5** the Chief Executive
- 3.6** the Chief Finance Officer

- 3.7** the Internal Audit Manager
- 3.8** the Monitoring Officer
- 3.9** external auditors and other statutory inspectors
- 3.10** officers designated by any of the above.

Employees must supply information to those officers on request.

Managers must routinely monitor all activities under their control and report on any significant variations from expected standards.

Managers must report at regular intervals on performance on planned activities and on financial performance against approved budgets.

All employees and all Members must report any suspected:

- 3.11** failure in any system;
- 3.12** failure to comply with financial regulations;
- 3.13** suspected criminal act, including fraud or corruption.

The report should normally be made to the line manager. Full guidance is provided in the Council's confidential reporting policy.

Any manager who suspects such an occurrence must take any immediate action necessary to rectify any failure in a control system and report the position to a relevant senior manager, who may include the Chief Executive, Chief Finance Officer, Monitoring Officer or Internal Audit Manager.

The Chief Finance Officer shall, with the agreement of the Chief Executive and Monitoring Officer, issue detailed guidance on procedures to be followed in compliance with these regulations.

All employees must comply with any applicable instructions or responsibilities specified in the guidance. In other respects all employees must act reasonably, having regard to the guidance and within the spirit of the guidance.

SCHEDULE 7 - CONTRACTS PROCEDURE RULES

- 1** All employees must comply with these standing orders, the relevant regulations relating to Public Contracts and with financial regulations when procuring goods and services.
- 2** All Directors have primary responsibility for ensuring compliance within their service areas.
- 3** Best value and value for money must be sought in all procurement activities. Competition must be sought in accordance with issued guidance.
- 4** Where the value of the goods and services is likely to be £50,000 or more the following requirements apply:
 - 4.1** tenders must be sought from three suitably qualified suppliers
 - 4.2** the supply must be governed by a written contract.
- 5** The only exception to these requirements shall be where the Cabinet has given authority in order to achieve best value.
- 6** Reasonable steps must be taken to manage risk throughout the procurement process and employees must have regard to the guidance that is issued for this purpose.
- 7** All potential suppliers of goods and services must be treated equitably.
- 8** In all procurement activities, arrangements must be clear regarding:
 - 8.1** the goods or services to be supplied and the supply mechanisms;
 - 8.2** the amount to be paid and the payment mechanisms;
 - 8.3** the rights and responsibilities of all parties.
- 9** Employees must consider the need to seek appropriate views, advice and guidance before making a decision or embarking on a course of action related to procurement.
- 10** The Chief Finance Officer shall, with the agreement of the Chief Executive and Monitoring Officer, issue detailed guidance on procedures to be followed in compliance with these standing orders. Such guidance shall include procedures for securing competition, for regulating the manner in which tenders are invited and for managing risk.
- 11** Employees must comply with any applicable instructions or responsibilities specified in the guidance. In other respects employees must act reasonably, having regard to the guidance and within the spirit of the guidance.

SCHEDULE 8 - OFFICER EMPLOYMENT PROCEDURE RULES

1 Recruitment and appointment

Declarations

- 1.1** 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.
- 1.2** No candidate so related to a councillor or an officer will be appointed without the authority of the Chief Executive or an officer nominated by him/her.

Seeking support for appointment.

- 1.3** The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 1.4** No councillor will seek support for any person for any appointment with the Council.

2 Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a head of paid service or a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- 2.1** draw up a statement specifying:
 - 2.1.1** the duties of the officer concerned; and
 - 2.1.2** any qualifications or qualities to be sought in the person to be appointed;
- 2.2** 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
- 2.3** make arrangements for a copy of the statement mentioned in paragraph (a) (i) to be sent to any person on request.

3 Appointment of head of paid service

The full council will approve the appointment of the head of paid service following the recommendation of such an appointment by an Appointments and Staffing committee of the Council consisting of five members appointed at the annual meeting. That committee must include at least one member of the executive.

The full Council may only approve the appointment of the head of paid service where no well-founded objection has been made by any member of the executive.

4 Appointment of chief officers

The appointments committee appointed by the Council will appoint chief officers. That committee must include at least one member of the executive.

An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the executive has been received.

5 Other appointments

Officers below chief officer. Appointment of officers below chief officer (other than assistants to political groups) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.

Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6 Disciplinary action

Suspension. The head of paid service, monitoring officer and chief finance officer 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.

Independent person. No other 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.

Councillors will not be involved in the disciplinary action against any officer below chief officer 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 disciplinary action.

7 Dismissal

Councillors will not be involved in the dismissal of any officer below chief officer 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 dismissals.

5 Part 5 - Codes and Protocols

SCHEDULE 9 - MEMBERS' CODE OF CONDUCT

Tamworth Borough Council Members' Code of Conduct

As a member or co-opted member of Tamworth Borough Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

As a member or co-opted member of Tamworth Borough Council, my conduct will in particular address the statutory principles of the code of conduct by:

- 1 Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- 2 Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- 3 Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Borough of Tamworth or the good governance of the authority in a proper manner.
- 4 Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.

- 5 Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- 6 Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- 7 Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- 8 Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- 9 Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- 10 Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- 11 Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

Registration of Interests

The Localism Act further provides for registration and disclosure of interests and this will be done as follows:

The Solicitor and Monitoring Officer will maintain a register of members' interests in accordance with section 29 of the Localism Act 2011. The register of interests is a public document which must be published on the Council's web site.

The requirement to register interests

Members and co-opted members shall on the adoption of this code of conduct register any disclosable pecuniary interests as specified by the Relevant Authorities (Disclosable Pecuniary Interest) Regulation 2012. A copy of the statutory provisions and the regulations is set out in the schedule to this code.

A member or co-opted member must before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the Council notify the Solicitor and Monitoring Officer of any disclosable pecuniary interest which a person has at the time when notification is given or in the case of re-election or re-appointment any interests which have not been the subject of notification. A form will be provided for the convenience of members and co-opted members.

All interests declared whether or not disclosable pecuniary interests shall be entered on the register.

The interests to be registered

- 12** Disclosable pecuniary interests as set out in the regulations¹ being the interest of:-
- 12.1** the member or co-opted member.
 - 12.2** the spouse or partner of the member or co-opted member.
 - 12.3** a person with whom the member or co-opted member is living as husband and wife or as if they were civil partners,
 - 12.4** and the member or co-opted member is aware that the other person has an interest.
- 13** Disclosable pecuniary interests² are:-
- 13.1** Employment, office, trade profession or vocation.
 - 13.2** Sponsorship.
 - 13.3** Contracts with the Council.
 - 13.4** Any interest in land in the Borough.
 - 13.5** Any licence to occupy land in the Borough.
 - 13.6** Corporate tenancies where the Council is the landlord and the tenant is a body in which any of the persons in paragraphs (a), (b) and (c) above have a beneficial interest.
 - 13.7** Securities such as shares in a body having a place of business in the Borough and the nominal value exceeds £25,000 or 1% of the issued share capital of that body or the class of shares held.

Obligations in respect of matters considered at meetings or by a single member exercising executive functions

If a member or co-opted member is present at a meeting of the Council, the Cabinet, or any committee, sub-committee, joint committee or joint sub-committee of the Council has a disclosable pecuniary interest of which they are aware and the interest is not entered in the register of interests, the member or co-opted member must disclose the interest to the meeting unless the interest is a sensitive interest (see below) in which case only the fact that there is an interest need be disclosed.

Notice of the interest must be given to the Solicitor and Monitoring Officer within 28 days of disclosing it, unless the interest has already been registered or notice has already been given.

If you have a pecuniary disclosable interest in any business you cannot participate, or participate further, in any discussion of the matter at the meeting or participate in any vote, or further vote taken on the matter at the meeting.

Standing order 21.6 provides that a member with a disclosable pecuniary interest must withdraw from the room in which the meeting is being held.

Where a single member exercising executive decisions has a disclosable pecuniary interest in any matter being dealt with by that member in discharging that function, notice of the interest must be given to the Solicitor and Monitoring Officer within 28 days of disclosing it, unless the interest has already been registered or notice has already been given and the member must not take any further steps in relation to the matter except for enabling the matter to be dealt with by another member.

Voluntary registration and declaration of interests – guidance

¹ The Relevant Authorities (Disclosable Pecuniary Interest) Regulation 2012.

² See the regulations for the full definition.

If a member or co-opted member has other interests which do not constitute a disclosable pecuniary interest, it would be good practice and in accordance with principle of openness to consider whether in all the circumstances such interests should be notified to the Solicitor and Monitoring Officer for inclusion in the register of interests.

Members and co-opted members should also consider whether such interests might be viewed by other people as prejudicing the proper consideration of business in the public interest and whether such interests should be disclosed to the meeting. Members and co-opted members should also decide whether or not to take part in the discussion and any vote where an interest is disclosed. Particular consideration should be given to other interests in the case of planning and licensing decisions.

The Solicitor and Monitoring Officer will be available to provide general guidance to members and co-opted members.

Sensitive interests

If a member or co-opted member considers that disclosure of an interest could result in that person or a connected person being subject to violence or intimidation an application should be made to the Solicitor and Monitoring Officer for details of that interest to be excluded from the register.

Dispensations

If the number of members prohibited from participating in any business would be so great a proportion of the number of members transacting the business as to impede the transaction of the business, the Council, acting by the Audit and Governance Committee may grant a dispensation in appropriate terms for a period not exceeding four years.

Criminal offences

Failure, without reasonable excuse to comply with the statutory provisions relating to disclosable pecuniary interests is a criminal offence which on summary conviction carries a maximum fine of £5,000 and may lead to disqualification for a maximum period of five years for being or becoming a member or co-opted member of a local authority.

Section 34 of the Localism Act (see the schedule) sets out the offences.

I

being a member or co-opted member of Tamworth Borough Council agree to be bound by the provisions of this code of conduct.

Dated.....

SCHEDULE 10 - OFFICERS' CODE OF CONDUCT

To be inserted when available

SCHEDULE 11 - PROTOCOL FOR MEMBER/OFFICER RELATIONS

Index

Underlying principles

The role of members

The role of officers

The relationships between members and officers generally

The relationship between the Overview and Scrutiny Committees and officers when Executive decisions are being scrutinised.

Officer relationships with party groups

Members in their ward role

Member access to documents and information

Non Council members on Council bodies

Press releases and correspondence (including e-mail)

1 Underlying Principles

Members and officers are bound by their respective Codes of Conduct which seek to promote the highest ethical standards. This protocol supports those codes and is intended to promote mutual respect between members and officers with regard to their respective roles as set out below and in the Council's Constitution.

2 The role of Members

- 2.1** To promote the social, economic and environmental well-being of the community.
- 2.2** Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.
- 2.3** Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.
- 2.4** Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- 2.5** Balance different interests identified within the ward and represent the ward as a whole.
- 2.6** Be involved in decision making.
- 2.7** Be available to represent the Council on other bodies.
- 2.8** To promote the highest standards of conduct and ethics.
- 2.9** To act collectively as the employer of the staff.
- 2.10** To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution.

Chairman of the Council
Leader of the Executive
Executive member
Portfolio holder (with or without delegated authority)
Chairman of a Scrutiny Committee
Member of a Scrutiny Committee
Chairman of a committee other than Scrutiny
Representing the Council on outside bodies

3 The role of officers

- 3.1** To initiate and to implement the policies set and the decisions made by members.
- 3.2** To provide professional and technical advice to members.
- 3.3** To carry out those functions delegated to officers.
- 3.4** To provide reasonable help, support and advice to all members.
- 3.5** To represent the Council on outside bodies.

- 3.6** To act in a specific capacity listed below where appointed so to do by the Council.

The Head of Paid Service (as defined by the Local Government and Housing Act 1989 section 4) has the following functions and duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council's staff; and the appointment and proper management of the Council's staff.

The Monitoring Officer (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to her/him that any proposal, decision or omission by the Council, a committee, sub-committee, or officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in Part III of the Local Government Act 1974.

The Chief Financial Officer (as defined by the Local Government Act 1972 section 151) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any committee, sub-committee, or officer has or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

4 The Relationship between officers and members

- 4.1** The relationship between officers and members should be characterised by mutual respect which is essential to good local government.
- 4.2** Close personal familiarity between individual members and officers can damage professional relationships and prove embarrassing to other members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between members and officers.
- 4.3** Any dealing between members and officers should be conducted with courtesy and respect and neither party should seek to take unfair advantage of their position. In particular, members should recognise and pay due regard to their role as an employer in their dealings with officers.
- 4.4** The Council has statutory duties with regard to equalities issues to positively promote equality. Members and officers shall not by their behaviour or speech be discriminatory with regard to a person's ethnicity, gender, disability or sexual orientation. Such principles shall apply to the implementation of all personnel policies, recruitment and promotion as they apply to day to day operations.
- 4.5** Members should not raise matters relating to the conduct or capability of a Council employee or of the employees collectively at meetings held in public or the Press. Employees have no means of responding to criticism like this in public. (If members feel they have not been treated with proper respect, courtesy or have any concern

about the conduct or capability of a Council employee they should raise the matter with the Chief Officer of the department concerned if they fail to resolve it through direct discussion with the employee.)

- 4.6 Members should not require any officers to change their professional advice nor to take any action which the officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct.
- 4.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.
- 4.8 In seeking advice and support members should have due regard to the seniority of the officer with whom they are dealing and the fact that, while those officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual member. For this reason members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant chief officer rather than a more junior member of staff.

5 The relationship between the Overview and Scrutiny Committees and officers (when Executive decisions are being scrutinised)

- 5.1 The Council's Overview and Scrutiny Committees shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate officers where they consider a decision of the Executive might be contrary to the policy framework.
- 5.2 When considering call officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior officer to ensure that more junior officers are not put under undue pressure.
- 5.3 When asking officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.
- 5.4 Where they consider it appropriate the Committee may ask officers to explain advice given to members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.
- 5.5 The Committee shall not question officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable nor deal with matters which are of a possible disciplinary/capability nature.
- 5.6 The Committee shall, at all times, respect the political impartiality of the officers and must not expect officers to give a political view.

6 Officer relationships with party groups

- 6.1 It must be recognised by all officers and members that in discharging their duties officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual members.

- 6.2 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner.
- 6.3 The support provided by officers can take many forms, ranging from a briefing with the Leader of the Executive, the leaders of other political groups, or chairmen of committees, to a presentation to a full party group meeting.
- 6.4 Any request for advice given to a political group or member will be treated with strict confidence by the officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.
- 6.5 When attendance is requested for political group meetings
 - 6.5.1 the request to attend a group meeting must be made through the Chief Executive;
 - 6.5.2 unless otherwise agreed by the Chief Executive, officers will not attend party group meetings which include persons who are not members of the Council or be present at purely party political discussions;
 - 6.5.3 such a request can only be made in relation to Council business;
 - 6.5.4 officers must respect the confidentiality of any party group discussions at which they are present.

7 Members in their ward role

- 7.1 When acting in their ward role members:
 - 7.1.1 need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time;
 - 7.1.2 recognise the officer's right to suggest that senior officers, the Executive (Council) or a committee should authorise additional work requested by individual members.

8 Member access to documents and information

- 8.1 Save as provided below every member of a committee, sub-committee of the Executive (Council) has a right to inspect documents about the business of that committee, sub-committee or the Executive (Council).
- 8.2 A member who is not a member of a specific committee, sub-committee (or the Executive) may have access to any documents of that part of the Council if they satisfy the Council's Monitoring Officer that they reasonably need to see the documents to perform their duties.
- 8.3 A member is not entitled to inspect any document or have access to any information about a matter in which they have a prejudicial interest or where to do so would be in breach of any statutory provision.

9 Press releases and correspondence (including e-mails)

- 9.1** Press releases must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party.
- 9.2** Council press releases are drafted by officers and may contain quotations from the Leader of the Executive, a relevant portfolio holder or chairman, or local member. Press releases about ceremonial events may contain a quotation from the Mayor or Deputy Mayor of the Council. Quotations will generally be made by members rather than officers (except when this would be inappropriate for example because of the subject matter or if it were in a pre election period)
- 9.3** All correspondence written on behalf of the Council must be written on the relevant headed paper.
- 9.4** When members are writing they must make it clear whether they are writing on behalf of the Council or as the ward member.
- 9.5** All correspondence should be open to the inspection of the public and in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended or if it is in conflict with the data protection legislation.

10 Enforcement

- 10.1** Any complaint that an officer has breached the terms of this protocol shall be referred to the Head of Paid Service for appropriate action under the Council's employment procedures.
- 10.2** Any complaint that a member has breached the terms of this protocol shall be referred to the Monitoring Officer for referral to the Audit & Governance Committee if the conduct would otherwise amount to a breach of the Council's Code of Conduct.
- 10.3** Where a complaint against a member involves conduct that would not otherwise breach the Council's Code of Conduct it will be referred to the Head of Paid Service for discussion with the Leader of the relevant political group. Where it is not possible to resolve a complaint by this means the Head of Paid Service may refer it to the Audit & Governance Committee for consideration.

SCHEDULE 12 - PRE-ELECTION PROTOCOL

The Local Government Act 1986 – S2 states that:-

“Local Authorities shall not publish material which, in whole or in part, appears to be designed to affect public support for a political party.”

This is interpreted to include that the Council must not give financial or other assistance to a person for publication of such material, and applies at all times.

The Local Government Act 1986 – S4:-

Allows for a code of practice on publicity.

The revised wording on elections is:-

“The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other 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 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 member level response to an important event outside the authority’s control. Proactive events arranged in this period should not involve members likely to be standing for election.”

This means that the Council’s resources must not be or even appear to an observer to be used for party political ends, including publicity, in this period of heightened political sensitivity.

Members should take especial care with electronic media such as blogs and twitter accounts and remember that the rules in the Code of Practice on Publicity very clearly apply to these types of communication.

In order to comply with this:-

- 1 Press releases about any policy matter, service delivery, service developments or scrutiny should not include quotes from or mentions of individual councillors or party groups.
- 2 No press releases should be issued on local or other issues promoted by or involving individual members.
- 3 Enquiries from the media will be directed towards appropriate officers only.
- 4 No links be added from the Council’s web site to any site which may be construed as political

EXCEPT that

Where absolutely necessary for the purpose of responding to outside events or to a crisis, the appropriate Councillor, committee chairman or Leader of the Council can be quoted, speaking on behalf of the Council.

At all times the following points must be considered:

Is there a valid reason for the Councillor concerned to represent the Council on this issue/at this event?

Is there a good reason why the event/announcement should be happening now, rather than after the elections?

This does not mean that party groups or individual members themselves may not issue press releases, as long as they are clearly identified as coming from them and not from the Council. It should be noted, though, that this is subject to the rules governing election expenses.

Use of Council property for public meetings

There is provision within the Representation of the People Act 1983 for candidates in an election to have free use of certain rooms for holding public meetings, in the electoral division in which they are standing. This entitlement is from the last day for the publication of the notice of elections until the day proceeding the day of elections.

- 5** A candidate is entitled – for purpose of holding public meetings in furtherance of her/his candidature – to the free use at reasonable times of a room in a school or other Council building. The person using the room must pay the costs of preparing the room, heating, lighting and cleaning.
- 6** Permitting the use of these facilities does not breach this protocol provided the local authority does not publicise the meeting.
- 7** This provision does not allow a candidate to hold surgery-type meetings or to use such rooms as his/her committee rooms, which is illegal.
- 8** If any clarification is required or difficulties encountered, advice should be sought from Democratic Services.
- 9** This guidance can be varied by the Returning Officer in consultation with the Monitoring Officer, according to circumstances.

SCHEDULE 13 - PROTOCOL ON MEMBER INVOLVEMENT IN COMMERCIAL TRANSACTIONS

1 Background

This protocol is designed to support members in their work within the community which is an invaluable part of explaining the intentions of the Council at a local level and which assists in maintaining the Council's responsiveness to legitimate interest groups.

2 Principles

The protocol will be based upon the following principles.

- 2.1** Protecting the personal integrity of Council members and officers.
- 2.2** Ensuring the financial and probity interests of the Council are protected.
- 2.3** Ensuring decisions are based on complete and sound information and advice from appropriate professional staff.
- 2.4** Ensuring decisions are in accordance with the Council's agreed processes and standards.
- 2.5** Protecting the Council, its members and officers from undue pressure or inappropriate contact from contractors and parties with a commercial interest in a transaction.

3 Protocol

The Council is engaged at any one time in a large number of commercial transactions, which range from such matters as the procurement of goods, services and works, the purchase or sale of land or the disposal of surplus property to such matters as the provision of advice and/or grant aid to companies, partnerships or individuals, the negotiation of partnership and joint venture arrangements and the management of such commercial relationships.

Councillors frequently have a substantial and very constructive involvement in such commercial transactions. That involvement is not limited to taking the decision in Council and Committee as to whether to enter into such contracts and arrangements and in exercising their scrutiny functions to ensure that such arrangements complied with the Council's requirements in terms of propriety and are designed and managed so as to provide the Council with the best possible value for money. Such involvement also extends to their role within the community in making the public aware of the services which the Council can make available, and in effecting introductions between such interested parties and the officers who are responsible for administering and delivering those services. Because of their very close involvement with the community which the Council serves, Councillors may also become aware of opportunities for the Council to act to benefit that community, opportunities to buy land, or commercial or voluntary organisations who could expand their activities if the Council were able to secure the opportunity for them to extend their premises, or local businesses who provide high quality goods or services of a sort which the Council requires, and who might benefit from an opportunity to compete to supply the Council. In addition, the political leadership of the Council provides an overall direction for the officers of the Council in their administration and delivery of such commercial services, and provides an opportunity for officers to seek informal, and confidential, guidance at an exploratory stage of a transaction, before the matter is sufficiently advanced for the relevant officers to report the matter to the Council or the appropriate Committee as a formal proposal for authorisation to proceed.

However, such commercial transactions also carry significant responsibilities. These include:

- 3.1** the obligation to secure the best possible value for money for the Council;
- 3.2** the legal obligation on the Council to secure “best consideration” on the disposal of its land, unless it obtains the consent of the Secretary of State;
- 3.3** the Best Value obligations to secure the continuous improvement in all Council services, whether delivered directly or externally procured;
- 3.4** the need to comply with relevant law, and in particular with:
 - 3.4.1 Public Procurement regulations
 - 3.4.2 the Human Rights Act 1998
 - 3.4.3 the Local Government (Contracts) Act 1997
 - 3.4.4 the Contracts (Rights of Third Parties) Act 1999
- 3.5** the need to ensure that a commercial transaction is drafted and documented in such a manner that it can be enforced, for example if the other party defaults or under-performs, or if the goods supplied or the work carried out subsequently prove to be defective;
- 3.6** the requirement that the transaction and all matters leading up to the final transaction, should be fully and clearly recorded, so that it can be audited both by the Council’s internal auditors and by the external auditors, and other inspectorates, to ensure propriety in the procurement process; and
- 3.7** compliance with the requirements of the Council’s Local Code for Councillors and the national code for officers.

In addition, there is the danger that an individual Councillor or officer will be misrepresented by the advocates or opponents of a particular proposal who may, innocently or otherwise, claim that the Councillor or officer has given incorrect information or advice or misrepresented the proposal.

Failure to comply with these requirements can result in serious penalties for the Council, for individual Councillors involved in the transaction and for officers. Such penalties include:

- 3.8** For the Council:
 - 3.8.1 direct financial loss from entering into contracts which are not good value for money for the Council, for example as a result of commitment to buy goods which are not of an appropriate standard, or to buy land where we have failed to establish that there are large liabilities for repairs or for clearing contamination;
 - 3.8.2 inability to enforce the contract or to recover damages for breach;
 - 3.8.3 liability to third parties, for example if the Council were to enter contracts for road-works or construction without appropriate nuisance and contamination conditions, or without securing appropriate indemnities from the contractor against damage to third parties;

- 3.8.4 liabilities where a decision made by or on behalf of the Council is overturned on judicial review because it is held to have been unlawful or unreasonable, or in breach of the Human Rights Act;
- 3.8.5 Adverse Court judgements, findings of maladministration, or Public Interest reports from the Council's Auditor;
- 3.8.6 the continuing cost of carrying out maintenance and repairs which could have been made the responsibility of the contractor, or of higher insurance premiums; and
- 3.8.7 the loss of the Council's reputation as an organisation dedicated to the interests of the community which it serves.

3.9 For individual Councillors:

- 3.9.1 Investigation under the Councils code of Conduct;
- 3.9.2 personal liability, in the event of a Councillor's negligence or reckless or deliberate misconduct causing loss to the Council. There is a duty, upon the Council to seek to recover loss from individual Councillors in the event that the loss is caused by their negligence or reckless or deliberate misconduct); and
- 3.9.3 prosecution under the Bribery Act or for Misconduct in Public Office. (Note that it is for the recipient of any gift or hospitality from a tenderer or contractor with the Council to prove that it was not an inducement or reward for anything which the recipient has done in their public position).

3.10 For an officer:

- 3.10.1 disciplinary proceedings by the Council, possibly leading to dismissal;
- 3.10.2 personal liability to the Council for any loss caused by their negligence or reckless or deliberate misconduct. (Note that the Council chooses to insure itself against such losses, but such insurance will not cover fraud or deliberate misconduct, and the Council, or its insurers, can still seek to recover the loss from the individual in appropriate cases);
- 3.10.3 prosecution for bribery or for Misconduct in Public Office.

It is therefore particularly relevant to set out the following ground-rules, for the protection of the Council, of Councillors and of officers.

4 Declaration and Registration of Interests

4.1 Councillors

The legal position on the declaration of Councillors' interests is set out in the Council's Code of Conduct for Members. Every member will have given a written undertaking that in performing their functions they will observe the code. It is the responsibility of each Councillor to identify when they have a declarable interest and to declare it. Where officers are aware of matters which suggest that a Councillor is likely to have a declarable interest, they will prompt the Councillor to consider the point, but Councillors should not rely upon being prompted. A failure by one or more

Councillors to declare an interest can lead to a finding of Maladministration, to a standards complaint against the Councillor, and to the decision of the Council being invalidated.

A declarable interest can arise not only because the Councillor, or a member of their family, stands to gain or lose from the Council's decision on the matter (as where a member of the Councillor's family is employed by the applicant for a grant from the Council) but also where the circumstances are such that the Councillor cannot consider the matter impartially (for example where they have already publicly committed themselves to supporting or opposing the application) or where a reasonable member of the public in possession of the facts might reasonably believe that the Councillor's involvement could affect the way in which the Councillor might speak or vote on the matter. If a Councillor is in any doubt about whether they have a declarable interest, they should seek the advice of the Monitoring Officer or, in his absence, the Chief Executive before taking any part in the consideration of the matter.

Where a Councillor has declared an interest, they must withdraw entirely from any part of a meeting at which that matter is under consideration and take no part in that consideration unless the matter falls within a dispensation which they have obtained or the declarable interest is non-pecuniary, is not significant in its scope, and the Committee has been advised of the interest and invited the Councillor to remain.

These requirements for declaration and withdrawal apply to informal meetings and contacts just as much as they apply to formal meetings of the Council and its Committees. A Councillor who has a declarable interest in a proposed development matter should therefore not attend any meeting between the developer or his agents and officers or Councillors.

4.2 Officers

Section 117 of the Local Government Act 1972 requires an officer to declare any pecuniary interest in any contract or proposed contract, and failure to do so is a criminal offence. In addition, his/her conditions of employment require declaration of any other conflict of interest.

5 Lobbying

It is a natural part of a political process that those who may be affected by a proposed decision of a local authority should seek to influence that decision. In many cases they will approach their local Councillor, as the interface between the Council and the local community, or the Chairman of the relevant Committee, as the person who is seen as being responsible for the processing of the decision, or a relevant officer. The Council wishes to be an authority which is responsive to the community which it serves, and therefore wishes there to be clear and accessible channels for such approaches, but also to ensure that this process of lobbying does not imperil the decision-making process or the decision-takers.

Councillors must be seen to determine matters on their merits. A Councillor or officer who has given a personal commitment to support or oppose a particular proposal will have committed themselves before the full issues have been explored, which exploration occurs from discussion of the officer's report and recommendation in the Council or Committee meeting. Accordingly, when approached by an advocate or opponent of a particular proposal, a Councillor has to decide whether:

- 5.1 They will remain impartial, in which case they must limit themselves to listening politely to the arguments put forward, declining to state a personal position and advising the person making the approach of the proper channel for making such representations. When they attend any Council, Committee or other meeting at which the proposal is considered, they should report to the meeting that they have received such representations.
- 5.2 They will take sides on the issue by declaring their support or opposition to the proposal. In that case, they are either an advocate or an opponent of the proposal and are no longer impartial. As a result, they should declare an interest and withdraw from any such meeting at which the matter is under consideration. The only exception to this rule is that, where a local Councillor has received and supports strong representations from local residents in his/her ward, that Councillor may be allowed to report those representations to the Committee in declaring an interest at the commencement of discussion of the matter and immediately before withdrawing from the meeting.

No officer should meet and hear advocates or opponents of a proposal on his/her own, but should wherever possible arrange that another officer is present and make a contemporaneous record of the meeting, which should be kept on the matter file and included as a background document, and should report the meeting to the Council or Committee meeting where any matter which is material to the determination of the proposal has arisen.

Where a Councillor is of the opinion that a person or organisation have legitimate representations to make, he/she should advise them that they may make those representations in writing to the relevant officer, and the officer should ensure that any relevant representations which he/she receives are fairly report to the meeting of the Council or Committee at which the matter is considered.

In some cases, it will be appropriate for the advocate or opponent to have a face-to-face meeting with the Council. Where a Councillor is of the view that such a meeting is appropriate, he/she should request the relevant officer to arrange such a meeting. The officer will consider, in consultation with the relevant Committee Chairman as appropriate, whether such a meeting will be constructive and whether it should be at officer or at member level. Where it is at member level, the officer will agree the appropriate Councillor representation and ensure that the relevant Councillors are invited to attend by the Executive Director Corporate Services. All such meetings will be attended by the officer of the Council who is responsible for the matter, or his/her representative, and the officers attending shall make a contemporaneous note of the course of the meeting and ensure that the fact of the meeting and any material issues which came out of it are reported to the meeting of the Council or Committee at which the matter is considered.

6 Gifts and Hospitality

Gifts and hospitality provide a particularly difficult area where local government rules are sharply at odds with private sector business practice. Recent events in national politics illustrate how careful local government Councillors and officers have to be to avoid the suspicion of impropriety, for their own protection as much as for the protection of their authority.

The Bribery Act provides that it is a serious criminal offence for anyone who has or seeks a contract with a local authority to offer, and for any Councillor or officer to receive, any gift or consideration as an inducement to, or reward for, doing anything or declining to do anything in respect of any matter before the Council. What is more, where any Councillor or officer

has received any gift or consideration, the legal presumption is that it was given and received corruptly unless the contrary is proved. So, while modest gifts and hospitality may form a normal part of private sector commercial practice, in local government it is up to the Councillor or officer to prove that the gift or consideration was entirely innocent. It is also an offence for an officer to receive anything beyond the proper recompense for doing his/her job.

The best way to demonstrate such innocence is to be totally open about the matter, and it is for this reason that every local authority maintains a register of gifts and hospitality for Councillors and officers, and the National Code of Local Government Conduct stresses the need to declare not only the receipt but also the offer of any such gift or hospitality.

That is not to say that Councillors and officers should never receive modest gifts or hospitality. A working lunch may be the most efficient way of transacting in a busy schedule. Equally, a contractor may reasonably wish to celebrate the completion of a project with a formal launch, and may wish to include some hospitality in such a launch. Whilst it is important not to offend by ungraciously refusing such an invitation, if innocently offered, it is more important to ensure that the Council's reputation is protected and not to give the impression that a Councillor's or officer might be swayed in the performance of his/her public duties by such an offer.

The simple ground rules are as follows:

- 6.1** always declare to the Monitoring Officer at the earliest opportunity any offer or receipt of a gift or hospitality from any person or organisation which has, or seeks to have, any commercial relationship with the Council, even if the offer is refused;
- 6.2** if you have any suspicion that the offer of a gift or hospitality might have been made from improper motive, to influence you in, or to reward you for the performance of, your public duties you should politely but firmly decline the offer and advise the Monitoring Officer of your suspicions;
- 6.3** any gift or hospitality offered should be appropriate in scale and nature to the occasion. In particular, any offer which is made at a time when an issue relating to the person offering the gift or hospitality is before the Council for determination should be viewed with particular care;
- 6.4** where you accept a gift or hospitality which has a commercial value, such as an invitation to a commercial sports event, you should always ensure that you pay the full commercial price (and not just the face value of the ticket) to the person providing the gift or hospitality, and that you declare this to the Monitoring Officer;
- 6.5** whenever possible, you should put any invitation on an official footing by advising the Monitoring Officer of the offer and requesting her/him to accept or decline the offer on your behalf;

7 Professional Advice:

Councillors are elected to act as community representatives, to give political and strategic direction to the Council and its services, to take critical decisions in the best interests of the community which they serve and to ensure that proper standards of conduct are maintained by officers and Councillors alike in the performance of their duties. Individual Councillors may have very considerable experience and expertise in particular fields, and the knowledge and experience which they have gained from their lives outside the Council can add a valuable extra dimension to the discharge of Council functions and help to keep the

Council in touch with the reality of the community which it serves, as well as being able to articulate the political will of the Council.

The Council is a very big and complex business which operates within a legal and regulatory framework which is significantly more complex than that which applies in most of the private sector. It employs specialist officers whose job it is to ensure that the Council secures the best possible value for money in the discharge of its functions. These officers are trained professionals in their specialist fields.

It is therefore important that the Council should ensure that it obtains the advice of the relevant officers, including the advice of the three statutory officers (the Head of Paid Service in terms of the co-ordination and direction of the Council's staff and resources, the Monitoring Officer in respect of legality and ethical probity and the Chief Finance Officer with regard to financial probity and administration) before taking decisions which affect the community. This is so whether the decision is being taken at Councillor or at officer level.

One area of special sensitivity relates to commercial negotiations, where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation, and where it is accordingly essential to ensure that the end result of the negotiation secures value for money for the Council and does not leave it exposed to excessive liability or risk. There will be occasions when Councillors can play an invaluable part in such negotiations, not least in expressing to the other party the commitment of the Council to a particular project, or the political constraints within which the transaction occurs. However, given the risks to Councillors from involvement in such negotiations, it must be the general rule that Councillors should never undertake any commercial negotiation without appropriate officers present, and should only undertake such negotiations, even with officers present, where there are clear reasons to conclude that their involvement in the negotiation, rather than in setting the political framework and approving or disapproving the final deal, will add real value to the process.

The Local Government Act 2000 enables individual members of a Council's Executive to bind the authority and when the provision is used it will be especially important to ensure, before concluding any such negotiation, ensure that the appropriate officers are satisfied that the transaction is lawful and represents value for money for the authority, by means of consideration of a written report and recommendation from the relevant officers.

8 Proper Authority:

The Council operates within a strict legal regulatory framework and can only do those things which it has statutory authority to do. Equally the law prescribes the decision-making process within the Council, and a decision which is outside the Council's powers or which is taken without following the due process can be invalid and can give rise to substantial liabilities. It is therefore important, before entering into any commercial negotiation, to ensure that the Council has the legal power to enter into the transaction and that the process will lead to a formal decision by a decision-taker who has authority to take that decision and is within the relevant policies and budget of the Council.

9 Confidentiality:

Commercial transactions, by their nature, involve the commercial activities of one or more party other than the Council. They will involve the disclosure to the Council of matters of commercial confidentiality, such as the business plans, performance standards or pricing structures of commercial organisations, disclosure of which to a competitor or to the market could be very detrimental. This is all the more so as Best Value encourages the development of Partnership and Open Book transactions. The maintenance of

confidentiality is essential both to maintain the integrity of a competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets, and are therefore able to be open with the Council.

It is important that Councillors should have access to the information necessary to enable them to understand the business of the Council and to ensure that it is being conducted in accordance with the policies and budgets of the Council and to the highest standards of propriety. The Council will ensure that all Councillors have the information necessary to enable them to perform their duties, but the corollary to that is that Councillors should only request access to confidential information where there are clear reasons why they need access to that information for the performance of their obligations, and should ensure that they do not disclose confidential information to unauthorised persons or organisations. Officers are instructed that if they are concerned that a Councillor's request for access to confidential information may be inappropriate, they are to seek the advice of the Monitoring Officer or the Chief Executive before releasing the information.

[N.B. References to the Monitoring Officer in this document should in her absence be referred to the Deputy Monitoring Officer.]

SCHEDULE 14 - PROTOCOL ON THE USE OF COUNCIL FACILITIES, PRINTING AND POSTAGE

1 INTRODUCTION

The Council only has power to provide facilities that assist Members in discharging their role as Members of the Council. Services can therefore only be used on Council business and never in connection with party political or electoral campaigning activity or for private purposes.

This Protocol covers the use of facilities provided under the Members' Services budget and has been approved.

1.1 PRINTING

1.1.1 Basis of Provision

Printing facilities are available to Members of the Council in their capacity as Ward Councillors for the purpose of the provision of information to constituents in their Wards about:

- (a) the work of the Council, its Committees and Sub Committees
- (b) services in the area provided by the Council or joint authorities [e.g. health]
- (c) how to contact their local Councillors or MP and raise issues
- (d) meetings, consultation and local initiatives for the area organised by or on behalf of the Council.

The facilities are not available for the production of material which in whole or in part appears to be designed to affect public support for or to promote:

- (a) a political party
- (b) a candidate or group of candidates in an election
- (c) an electoral or party political campaign

1.1.2 Detailed Arrangements

Quantity	Entitlement is for a maximum of 100300 A4 copies per Member per calendar month with sufficient materials and postage to complete the request.
Materials	Standard range of white/tinted paper or card stocked by Democratic Services will be available for use. Produced in black ink with option of including one other colour.
Content	Under no circumstances can the name of a political party appear on the printed material. Slogans, title or phrases which are associated with a political party cannot be part of the text.
Layout	There is no prescribed format for the layout.
Logos	Material produced should include an indication that it has been printed by the Council under the arrangements for

members printing. This can be by use of the Coat of Arms or Logo or the acknowledgement 'Printed by Tamworth Borough Council'

- Names** In addition to the names of Members of the Council printed material can contain the name of the MP or MEP for the area and the names of relevant officers of the Council shall not be included, only job titles will be permitted with prior consent of the Officer.
- Photos** These can be incorporated on the same basis as that which applies to the inclusion of names.

Processing of Requests

Printing requests should be submitted to Democratic Services for approval under the above arrangements. Any decision not to process the request will be advised to the Member.

The opportunity will be available to discuss any aspect further with Democratic Services. In the event of any unresolved issue the matter can be further considered by the Solicitor to the Council.

1.2 PHOTOCOPIERS

Short run copying facilities are provided in Group Offices for use on a self service basis by Members of the Council in connection with Council business only. Members will be provided with controlled access to these facilities and use will be monitored on an individual and overall basis.

With the obvious exception of the print quantity the principles under which these facilities can be used are the same as apply to requests for printing via Democratic Services already described in this guidance note.

1.3 COAT OF ARMS

The Coat of Arms and the Council's logo are only available for use in connection with Council business, which includes when Members are communicating on legitimate council business.

Use by Members of the Council is only acceptable on material produced under the arrangements for Members printing, or on Members personalised stationery.

Under no circumstances should the Coat of Arms or the Council logo be used as part of material produced by or on behalf of Members of the Council outside of the approved arrangements described above.

1.4 PERSONALISED LETTERHEAD AND BUSINESS CARDS

A template is available for Members to print direct from their laptops. A colour printer is available in the Members' Room.

Personalised business cards can include details of advice bureaux or reference to other representative roles undertaken where that role arises from being a Member of Tamworth Borough Council

1.5 POSTAGE

1.5.1 Basis of Provision

Facilities are available to Members of the Council on the basis of posting individual letters for the purpose of

Responding to individual or small groups of constituents on specific matters raised by them

Communication with groups of constituents on matters or relevance specifically to them

Communication with other organisations as a part of dealing with issues raised by constituents

Providing information on a one off basis to new electors in the Ward on the work of the Council, its Committees and Sub Committees, services in the area provided by the Council or joint authorities [e.g. health] and how to contact their local Councillors or MP.

The facilities are not available for mail shots, the distribution of leaflets or the posting of general information to constituents other than in the circumstances described above.

Clarification on any proposed use of postal facilities can be obtained from Democratic Services.

1.5.2 Business Reply/Freepost Service

The Freepost Licence can be used by Members

To facilitate responses to individual letters of the type that could be posted by the Council

On cards which have been produced under the arrangements for Members printing set out in this guidance note

1.6 RECORD OF USAGE

A record of each Members usage of these provisions will be maintained by Democratic Services

SCHEDULE 15 - GIFTS AND HOSPITALITY

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the Bribery Act. These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

This Protocol of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority

This Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

1 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do would be in breach of one or more of these principles:

1.1 Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

Further, the authority's Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

1.2 You should only accept a gift or hospitality if there is a commensurate benefit to the authority

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interest of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage.

But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.

1.3 Never accept a gift or hospitality if acceptance might be open to misinterpretation.

The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.

determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination.

funding decisions, when the authority is determining a grant application by any person or organisation.

1.4 Never accept a gift or hospitality which puts you under an improper obligation

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority,

1.5 Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this protocol. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2 Consent Regimes

2.1 General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

2.1.1 civic hospitality provided by another public authority

- (a) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (b) tickets for sporting, cultural and entertainment events which are sponsored by the authority
- (c) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (d) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority if you meet accidentally in a public house, café or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (e) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head.
- (f) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- (g) hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under

instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit.

- (h) other unsolicited gifts, where it is impractical to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure:

The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Civic Officer together with a written statement identifying the information set out in Paragraphs 2(b) below. The Civic Officer will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity Fund, on whose behalf it will be raffled or other wise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

2.2 Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2 (a), you may also do so if you have previously obtained specific consent in accordance with the following procedure:

2.2.1 You must make an application in writing to the Monitoring Officer, setting out:

- (a) the nature and the estimate of the market value of the gift or hospitality
- (b) who the invitation or offer has been made by or on behalf of
- (c) the connection which you have with the person or organisation making the offer or invitation, such as work which you have undertaken for the authority in which they have been involved
- (d) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- (e) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

2.2.2 The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

2.3 Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost or provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out Paragraph 2 (b) above. A form for this purpose is attached to this Protocol, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

2.4 Gifts to the authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

2.5 Definitions

2.5.1 "Gift or hospitality" includes any:

- (a) the free gift of any goods or services
- (b) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- (c) the opportunity to obtain any goods or services which are not available to the general public
- (d) the offer of good, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

2.5.2 References to the “value” or “cost” of any gift or hospitality are references to the higher or:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

To: Solicitor to the Council/Monitoring Officer

Declaration of Receipt of Gifts or Hospitality

Name	
Address:	
What was the gift or hospitality?	
What is your best estimate of its Market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the protocol of Conduct? If so, which? Gift or Hospitality	
Did you get the consent of any officer Before accepting it? If so, who?	
Were there any special	

circumstances Justifying acceptance of this gift or Hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality	
Signed	Date

SCHEDULE 16 - LOCAL PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS [THIS WILL NEED TO BE COMPLETELY REWRITTEN FOLLOWING THE LOCALISM ACT WITH AN EMPHASIS ON BIAS AND PREDETERMINATION RATHER THAN CODE]

1 INTRODUCTION

- 1.1** Members should always appreciate that when the Council is dealing with planning matters (especially when determining a planning application at Planning Committee it must act fairly because it is exercising the Council's discretion as local planning authority. As such, the Committee and each individual member of it should avoid the appearance (as well as the substance) of having pre determined an issue or having a fixed opinion about it, or being biased about the outcome.
- 1.2** Members should always appreciate that the appearance of what they do is just as important as the substance of it.
- 1.3** This advice applies, with necessary modification, to Officers as well as Members. In the case of delegated decisions there is a risk of accusations of impropriety because of the lack of any public meeting to discuss applications. If a Member would have to declare an interest and take no part in the processing of or decision on an application, then an Officer in the same position must take no part in it, either directly or in a management/ supervisory capacity.
- 1.4** This advice does not prevent contact between applicant and case officer, nor does it rule out the case officer tendering advice to an applicant or officer, but it does mean that it must be clear on the appropriate file that the ultimate decision on an application was made or verified by another, unconnected officer. In rare circumstances it may be appropriate for the delegation to be declined and an otherwise delegated item put before Committee.
- 1.5** Make sure that you always comply with the statutory requirements in respect of Disclosable Pecuniary Interests, and apply the rules in the Members' Code of Conduct. Then apply the rules in this Planning Guidance Note. If you do not abide by the Planning Matters Guidance Note, you may put:
- 1.5.1 the Council at risk of proceedings on the legality or maladministration of the relevant decision
- 1.5.2 yourself at risk either of being prosecuted for failure to comply with the Disclosable Pecuniary Interests rules, or being subject to a complaint for failure to comply with the Council's Code of Conduct.

2 DEALING WITH OR ASSISTING APPLICANTS/OBJECTORS

- 2.1** As a Member of the local planning authority (LPA), and particularly if you are a Member of TBC, you are likely to be approached by members of the public in connection with planning policies or individual planning applications which have been or are about to be made to the Council. The approach may come from an applicant (or his/her agents), or from an objector, or indeed from an amenity society or similar grouping. Ideally, such approaches should be discouraged, or redirected to planning officers, but realistically they cannot be avoided. You should deal with those approaches having careful regard to the advice in this guidance note.

- 2.2** Especially with the smaller applications, applicants will frequently wish to seek advice on making or promoting their proposals. If an applicant, or potential applicant, approaches you asking for such advice that person should immediately be directed to the appropriate planning officer in the Directorate of Communities, Planning and Partnerships. Officers will happily assist applicants who are unsure of what to do.
- 2.3** Approaches may be by way of letter or personally either over the telephone or perhaps at a surgery. If the approach is by letter, the advice is that the letter should be copied to or handed to a planning officer. The views expressed can then be taken into account by the case officer. As a courtesy to the writer, the letter can be simply acknowledged, together with confirmation that it has been passed to the Planning Officer and will be taken into account.
- 2.4** Personal approaches to Members are more difficult. You may feel that you are "put on the spot" by the person concerned and in such cases the response must be carefully considered.
- 2.5** In such cases, you may listen to the views being expressed, you may also ask questions by way of clarification. In some cases it might even be appropriate to identify aspects of the proposal which might cause you concern or to suggest possible contrary views to the person making the approach to assess their reaction or simply to make sure that the views they are expressing are in the full knowledge of all the arguments.
- 2.6** However, you should NEVER
- 2.6.1 state unequivocally that you are opposed to or in favour of a particular outcome to an application;
 - 2.6.2 promise to or actually campaign for or lobby other Members for a particular result of an application;
 - 2.6.3 promise to take a particular stand or vote in a particular way when an application is presented for decision.
- 2.7** You may express an understanding of, and sympathy with or opposition to particular aspects of the proposal, but you must (rarely) sympathy for a particular view. You may even express a preliminary view on an application, but you must make it clear that:
- 2.7.1 you are expressing a view before the meeting and you will only make a final decision at the meeting itself
 - 2.7.2 that you are reaching your current view on the basis of the facts you know at that time and that it does not preclude you from reaching a different decision in the future if further or new circumstances come to light; and
 - 2.7.3 when at the meeting making the decision you state that you are not bound by previous decisions or comments that you have made but that you are considering the application on the information before the meeting and with an open mind.

- 2.8** It would be most unwise to advise any applicant of the likely outcome of an application, even where you are fully aware that the planning policies for the particular area would be very likely to support or conflict with the proposal. You should also always tell a constituent that you can give no promises on how you will speak or vote at a meeting and that you will listen to all the arguments before coming to your own personal decision.
- 2.9** It should go without saying that it is highly inappropriate to negotiate in respect of a planning application directly with an applicant or with the planning officer on behalf of an applicant or objector. Although it may be tempting to suggest to an applicant that their scheme might be improved by their addressing certain factors, such views should only be expressed via the case officer. That way, any promises made by the applicant can be properly noted and incorporated into planning conditions or any Section 106 agreement.
- 2.10** If you are unwittingly drawn into doing this, as unfortunate as it may be, you should consider whether you are compromised. If you are now effectively committed to vote for or against the application, can no longer consider the application purely on its merits, or are likely to be perceived as committed to acting as an advocate for either the applicant or the objectors, you should take no further part in its processing and absent yourself from the discussion at the meeting when it comes up for decision.
- 2.11** You must not put pressure on officers to put forward a particular recommendation. You may ask questions and submit written views, and provide the officers with any local knowledge which you consider to be material. However, outside a meeting, you should only discuss a matter with that officer who is authorised by the Strategic Director or Head of Service to discuss such issues with Members. Officers must act in accordance with the Council's Code of Conduct for Officers and their own professional codes of conduct and their recommendations will be presented on the basis of professional expertise and independence. You must accept that, on occasions, this may be at odds with the views and opinions of individual Members and at times, the decision of the Planning Committee.
- 2.12** You may certainly help members of the public with procedural advice. Many members of the public come into contact with planning perhaps only once or twice in their lifetimes and so may not be familiar with such things as:
- 2.12.1 how to submit a planning application;
 - 2.12.2 how to inspect a planning application and to make representations in support of or to object to an application;
 - 2.12.3 how to find out the relevant planning policies;
 - 2.12.4 which planning applications are determined by officers under delegated powers and which come before the Planning Committee;
 - 2.12.5 whether they can attend the meeting of the Planning Committee and make verbal representations.

You can happily help constituents with this sort of information, but it is a matter of judgement where simple help stops and 'professional advice' begins.

- 2.13** If you feel that despite having taken all the necessary precautions, you could reasonably be perceived as having pre-determined an application or to have been

unduly influenced by your involvement, then you should explain at the meeting that you do not intend to speak and vote because of this and leave the meeting room. This can then be recorded in the minutes.

3 SITE VISITS

- 3.1** Except in accordance with the following provisions of this part of the note, you should avoid entering any premises which are the subject of a planning application.
- 3.2** Whilst the Council has right to enter property on notice to inspect, individual Councillors have no such rights of entry. You should not enter any neighbouring premises unless there is general public access to those premises or if, for instance, they are crossed by a public footpath. Even where the public normally have access to the premises, as in the case of a shop, that invitation is for the purpose of shopping and not for inspection. It may be appropriate for you to view the site from public vantage points, but you should be extremely wary of any situation where you need to gain permission to view a site.
- 3.3** Where you feel that you need to inspect the site before you can make up your mind on the application, the same is probably true for all members of the Planning Committee. If you genuinely feel that you cannot make up your mind about an application until you have seen the site then the correct course is to attend the appropriate deciding meeting and request or move a site visit. On an official site visit you will attend the site with other Members, with senior Planning Officers in attendance and therefore with professional advice to hand to assist you in interpreting the proposal and what you see, and ensure that any information gained in the site visit is reported back to all members of the Planning Committee.
- 3.4** If you do attend an official site visit, or otherwise visit a site, this should not be considered to be an opportunity to discuss the matter with either the applicant or any objectors. You may suggest questions to be put to the applicant or objectors, but any discussion of the merits of the application should be reserved to the Planning Committee meeting.
- 3.5** If you are invited onto land, either by a constituent or applicant, you should have careful regard to the advice in part 2 and (if appropriate) part 9. Remember that such activities are very much open to misinterpretation by the public at large. If you have been invited onto a site it would be as well to announce that when speaking on the application at Development Control.

4 OUTSIDE BODIES

- 4.1** Many Members are also members of outside bodies. In some cases you may have been nominated for membership by the Council. In other cases you may simply have joined because of a sympathy with that body's view or because of a feeling of civic duty to assist. In some cases you may have been invited to join by the body itself. The advice in this paragraph applies equally to Parish and County Council Members.
- 4.2** It may well be that the body on which you sit is called on to respond to a consultation on a planning application. There is no absolute bar on your attending that meeting, but if you do you may find it difficult to avoid the problems set out above. You might find it appropriate to avoid taking part in the discussion if you know you are likely to be part of the meeting which makes the ultimate decision on an application. If you do take part in the meeting of the consultative body, it would

be advisable for you to declare at the start that you are going to listen to the views expressed by the body but that you cannot be bound by any decision of that body, neither are you bound to take the same line at the District Council meeting deciding the application.

- 4.3** If you are an employee of, hold paid office in, or have a significant shareholding in a body which has submitted a planning application, you will have a Disclosable Pecuniary Interest in the application and must not participate in the discussion or vote on the application unless you have obtained a dispensation from the Standards Committee. Unpaid directorships or membership of the Management Committee of such a body is likely to amount to bias and so preclude your participation on this matter at Planning Committee. Ordinary membership of that organisation may not amount to bias, but you should still consider carefully whether the applicant or objectors might perceive you as being biased as a result of your membership, in which case you should not participate in this matter.
- 4.4** As a County Councillor, it may be appropriate for you to take part in a meeting even though that meeting is deciding an application made by the County or is considering a response to an application which is made to the County Council. However, if you took the decision within the County Council to submit the planning application, or if you are likely to be part of the County Council meeting that decides the application (as appropriate) you might consider it appropriate not to take part in the District Council meeting that considers the matter.
- 4.5** Similarly, if you took part in the decision within the District Council to submit the planning application, it would not be appropriate for you to take part in the planning meeting which considers planning consent for that scheme. A Member who feels obliged to support a District Council scheme at TBC because he or she supported the scheme when it was initiated at the meeting prompting it might have difficulty demonstrating that all the proper planning considerations were taken into account when considering the grant of consent.

5 POLITICAL PARTIES

As a general rule, party politics should have no place in the consideration of individual planning applications. The views of your party may be a material consideration, but should never dictate the outcome or replace your personal judgement on an application.

6 DISCLOSABLE PECUNIARY INTERESTS

- 6.1** The Disclosable Pecuniary Interests which members are required to register are now defined by the Disclosable Pecuniary Interests Regulations 2012, and the list of definitions is appended to this Guidance Note.
- 6.2** The drafting of Section 31 of the Localism Act 2011 is far from clear, but you should regard yourself as having a Disclosable Pecuniary Interest in an item of business which relates to the matter in which you have a Disclosable Pecuniary Interest.
- 6.3** Where you have a Disclosable Pecuniary interest in an item of business, you should disclose that interest to the meeting before or at the start of the consideration on that matter, or as soon as it is apparent and you should not participate in the discussion of, or vote on, the item of business. Failure to comply with these requirements may constitute a criminal offence. The Council's Standing Orders also require you to withdraw from the room in which the meeting is being held for the duration of consideration of the item of business.

- 6.4** Where you have not previously registered a Disclosable Pecuniary interest in the matter, you are now required to do so within 28 days of becoming aware of the interest, or of the date when the agenda for the meeting was sent out to members, whichever is the earlier.

7 OTHER MEMBERS' INTERESTS

- 7.1** The Council has adopted a Members' Code of Conduct which requires members to register and disclose 'Non-Disclosable Pecuniary Interests and Non-Pecuniary Interests' as defined in that Code (the full requirements of the Members' Code of Conduct are set out in Part 5 of the Council's Constitution). For ease of reference, these interests are referred to as "Other Interests" in this Guidance Note.

- 7.2** A member will have an "other interest" in an item of business where:

7.2.1 A decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of the member, or of a member of your family or a person with whom you have a close association to a greater extent than it would have on the majority if the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area; or

7.2.2 it relates to or is likely to affect any of the interests listed in the Appendix to the Code (appended to this Guidance Note), but in respect of a member of your family or a person with whom you have a close association,

and that interest is not a Disclosable Pecuniary Interest.

- 7.3** Where you attend a meeting at which you have an "other interest" in an item of business, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

- 7.4** The Ombudsman has previously advised that the Council is at risk of a finding of maladministration if a Member who has an interest in an application exercises any of the powers or privileges accorded to Members in respect of that application. There may be a general perception that calling-in a delegated item to Planning Committee ensures that the public will conclude that everything is 'above board'. The Ombudsman does not share that view, so a member who has a Disclosable Pecuniary Interest or an "other interest" in a planning application should not exercise powers of call-in in respect of that application.

- 7.5** In some cases you may not become aware of your potential interest until after you have submitted comments as local Member or taken some other action. If this happens, you should contact the case officer urgently as soon as you realise the situation so that Officers can take the appropriate action.

- 7.6** If you do find yourself having to disassociate yourself from an application, you may well feel that your constituents have been disenfranchised. This does not entitle you to set aside this advice. In these cases it is the Ombudsman's view that:

- 7.6.1 you should invite a Member from the same ward or from a neighbouring ward to take an interest in the matter
 - 7.6.2 constituents who approach you should be invited to contact that other Member or any other Member of the deciding body
 - 7.6.3 you should avoid expressing any view about the application to other Members (save as set out below) and you must never communicate to other Members of the deciding meeting what you would have said had you been able to do so.
- 7.7** Having said this, in some circumstances it may be appropriate to comment on a planning application in your private capacity. You should avoid doing this if at all possible but in some circumstances it is unavoidable. If this is the case your comments can be reported simply, as third party comments rather than as local/ward Member comments, but to ensure that your comments are treated properly only write in on plain, notepaper, never headed Councillor notepaper, and try to avoid contact with the case officer. If you do need to contact the case officer, please remember to advise him/her that you do have an interest and are calling/visiting purely as an ordinary resident.

8 APPLICATIONS BY MEMBERS AND OFFICERS

- 8.1** Nothing in this Guidance Note should be taken to prevent a member or an officer of the Council from making an application for planning permission in their personal capacity. Where a member or an officer does make such a planning application, it will be dealt within accordance with these provisions, which follow the recommendations of the Local Government Association.
- 8.2** If you are making an application, or if a close relative or business partner is making one, you or the agent should make this clear in a covering letter with the application. A copy of the letter will be lodged with the Monitoring Officer. Equally, if you act professionally as agent for an applicant or objector this should be declared in the same way.
- 8.3** If the application is one which would normally be dealt with under delegated powers the Director of Communities, Planning and Partnerships may decline the delegation and the matter submitted to TBC for determination.
- 8.4** Prior to the matter being included on a DC agenda the file and draft report will be submitted to the Monitoring Officer. The Monitoring Officer will certify that the application has been properly dealt with and the report will show this. If it cannot be so certified, the matter will be the subject of a Monitoring Officer's report to full Council prior to any decision being made. You will be asked to consent to the eight week determination period being extended to allow for this extra procedure to take place.
- 8.5** This guidance applies equally to applications submitted through or which affect companies which are owned by a Councillor or Officer. This includes companies in which a Member or Officer has a controlling or significant interest. You are reminded of the rules regarding pecuniary interests as well. Nothing in this guidance overrides or alters that.
- 8.6** Applications which affect an Officer (as opposed to a Member) will be dealt with in the usual manner. Any letter of representation should identify you as an Officer of

the Council or, if submitted by a close family member or on behalf of a company in which you or your family are interested, identify that relationship. The file may be referred to the Monitoring Officer before a decision is made if there is a real potential for an allegation of improper influence. In such cases the Monitoring Officer will be asked to certify that the correct procedures have been followed and that all other matters have been dealt with properly. If the Monitoring Officer considers it appropriate, an otherwise delegated item may be submitted to TBC for decision. This will be the norm when applications affect any Officer whose duties include direct involvement in the planning process. As set out above, this review procedure might result in a Monitoring Officer's report.

- 8.7** It should go without saying that any attempt by an Officer to improperly influence the outcome of a planning application in which there is a personal interest, other than strictly in accordance with normal procedures and the above guidance, would be looked on as a matter of the gravest misconduct and is likely to result in immediate suspension and dismissal.
- 8.8** Applications by or which affect Directors or the Monitoring Officer may be the subject of external review if the Chief Executive (after consultation with the Chairman of Council and all Group Leaders) considers it appropriate.

9 PUBLIC SPEAKING

- 9.1** Public speaking as currently constituted allows an objector to an application which is recommended for approval the opportunity to address the Planning Committee. The Ombudsman has made it clear that if you have declared an interest as a Member it is highly inappropriate for you then to attempt to exercise your right as an objector to address the Committee. The Ombudsman has made it clear that his view is that this completely defeats the object of the declaration of interest.
- 9.2** Even more so, under no circumstances should you exercise a right of reply if you are an applicant or act (professionally or as a friend) on behalf of an applicant.
- 9.3** At no time during a meeting should you allow a member of the public to communicate with you (either orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

10 APPLICANT/OBJECTOR MEETINGS

- 10.1** For the larger applications it is not unusual for Members to be invited to "presentations" by both promoters and opposers of the scheme. You are advised to be extremely cautious about accepting such invitations. If, for instance, the invitation is to attend a presentation at a smart hotel where a lavish buffet is laid on for those attending it would be highly inappropriate for you to attend.
- 10.2** In some limited circumstances it may be appropriate for you to attend such presentations, but you should always seek advice from the Director of Communities, Planning and Partnerships or the Borough Solicitor before attending. It would also be wise to check whether the invitation to attend has been extended to Planning Officers, and if it has not, or more importantly if the organiser has intimated that Planning Officers are definitely not welcome, then it would be less appropriate for you to attend.
- 10.3** If having weighed the above advice you decide that you do wish to attend, you should be careful not to express any views at the presentation, should decline to

express a view if called on to do so, and should be careful in the way you phrase any questions that you ask. You should make it clear to the organizers that their presentation material should be copied to the case officer so that he/she may take it into account and advise on it.

- 10.4** Any hospitality offered to a Member over the value of £25 (this excludes reasonable and normal meeting refreshments such as tea, coffee and light snacks), whether or not accepted, should be notified to the Monitoring Officer who will record it in accordance with paragraph 5 of the Members' Code of Conduct.

11 DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN

- 11.1** Law requires that where the Development Plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise (Section 54A of the Town and Country Planning Act). Local members may be well placed to identify circumstances in which it might be justified to determine a particular application as a departure from the policies set out in the Development Plan.
- 11.2** If the Council wants to approve an application which is not in accordance with the Development Plan, the material considerations which lead to this conclusion must be clearly identified by Members and they must also clearly justify why they are overriding the Development Plan. The personal circumstances of an applicant will rarely provide such grounds. The officer should be given opportunity to explain the implications of the contrary decision.
- 11.3** If the officer's report recommends approval of an application which conflicts with the Development Plan, the report will include full justification for this.
- 11.4** Where Members make a decision contrary to Officer recommendation (whether for approval or refusal), it is important that a detailed minute of the Panel or Committee's reasons should be made. Such reasons should be clear and convincing.

12 CONCLUSION

At all times you must appreciate that as a Member of the Council in general and as a Member of TBC that you take on a heavy duty. As the Code of Conduct points out, your duty is to the whole community and not to any section of it. By the same token, the whole community has a right to look to you and to the Council as a whole to consider matters dispassionately, having regard only to the relevant factors and disregarding irrelevant ones.

13 GUIDELINES ON PRE-DECISION DISCUSSIONS

- 13.1** It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.
- 13.2** Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies between planning officers.

- 13.3** A written note should be made of the meeting. If it is known beforehand that a meeting is likely to be contentious arrangements should be made for at least two officers to be present. What was discussed or concluded should be confirmed in a follow up letter, and the receipt of any written material also confirmed. If the other parties produce a meeting note it should always be carefully scrutinised, compared against the notes) taken by Council Officers and any discrepancies challenged in writing. Care must be taken to ensure that advice is not partial (nor seen to be) otherwise a subsequent report could appear to be advocacy.
- 13.4** To maintain impartiality, as well as the appearance of impartiality, it is preferable that Councillors do not take part in such discussions. However, should there be occasions when Councillors are involved they should always be advised by appropriate professional officers from the Council (which must always include a senior Planning Officer) and be authorised on a case by case basis by TBC.
- 13.5** The involvement of Councillors in such discussions should be recorded in the relevant Panel or Committee minutes.
- 13.6** A senior legal officer always attends the meeting to ensure that procedures have been properly followed. Whilst the Council makes extensive use of standard wordings for conditions, in the case of any conditions which councillors may wish to add to or amend, officers have delegated powers to draft such conditions which need to be reasonable and relevant to the permission.

14 TRAINING

- 14.1** Reading the above guidance will have emphasized the potential minefield that could result as a breach of the rules. For that reason, you may not participate in the decision making process on planning matters until you have attended the mandatory training prescribed by the Council. These are run at regular intervals and cover planning law, regulations, procedures, codes of practice and the Development Framework that will assist you to carry out your role properly and effectively.

SCHEDULE 17 - TAMWORTH BOROUGH COUNCIL MONITORING OFFICER PROTOCOL

1 GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

- 1.1** The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Tamworth Borough Council.
- 1.2** The current responsibilities of the Monitoring Officer role rest with the Solicitor to the Council, who undertakes to discharge his statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, he will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 1.3** A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
- 1.3.1 complying with the law of the land (including any relevant Codes of Conduct);
 - 1.3.2 complying with any General Guidance issued, from time to time, by the Audit & Governance Committee and the Monitoring Officer;
 - 1.3.3 making lawful and proportionate decisions; and
 - 1.3.4 generally, not taking action that would bring the Council, their offices or professions into disrepute.
- 1.4** In the absence of the Monitoring Officer this Protocol shall apply to the Deputy Monitoring Officer.

2 WORKING ARRANGEMENTS

- 2.1** Having good working relations with Members and Officers will assist in the discharge of the statutory responsibilities on the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2** The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
- 2.2.1 be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
 - 2.2.2 have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding

decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team (or equivalent arrangements);

- 2.2.3 have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team (or equivalent arrangements);
- 2.2.4 in carrying out any investigation(s) have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;
- 2.2.5 ensure the other statutory officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- 2.2.6 meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- 2.2.7 report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service, Chief Financial Officer and the Audit & Governance Committee;
- 2.2.8 as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources he requires to discharge his statutory functions;
- 2.2.9 have a special relationship of respect and trust with the Leader, Deputy Leader and the Chairmen of the Cabinet, Audit & Governance, Licensing, Planning and Overview and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
- 2.2.10 develop effective working liaison and relationship with the Councils external Auditors and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council;
- 2.2.11 maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- 2.2.12 give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Audit & Governance Committee (unless the Chairman of Audit & Governance Committee agrees a report is not necessary);

- 2.2.13 have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
 - 2.2.14 subject to the approval of the Audit & Governance Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and
 - 2.2.15 appoint a deputy and keep him or her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer.
- 2.3** To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 2.4** The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).
- 2.5** To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

3 SANCTIONS FOR BREACH OF TAMWORTH'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL

- 3.1** Complaints against any breach of Tamworth's Code of Conduct for Members must be referred to the Monitoring Officer. Complaints against any breach of this Protocol by a Member will be referred to the Audit & Governance Committee and to the relevant Leader and/or Chief Whip of the Political Party Group. Complaints against any breach of this Protocol by an Officer may be referred to the relevant Chief Officer and/or the Chief Executive.

SCHEDULE 18 - GUIDANCE NOTES IN COMPLETING THE REGISTER OF MEMBERS' INTERESTS FORM

Guidance is given below on the specific paragraphs and information required in the statutory Register of Members' Interests form.

1 Section A – Financial Interests

1.1 Employment and/or business details carried on by me:

(You should include under this heading every employment, trade, profession, occupation or vocation which you have to declared for income tax purposes, i.e. that is carried on for profit or gain.

Give a short description of the activity concerned, e.g. "Computer Operator", "Farmer" or "Accountant". For these purposes being a Councillor need not be declared as an occupation. Equally Cabinet members do not need to declare their Cabinet responsibilities or the amount of responsibility allowance that they are in receipt of from the Borough Council for carrying out those duties. That information is available to the public through other means.)

1.2 The name of the person who employs or has appointed me:

(You should include under this heading the name of any individual, company, partnership, public body etc who employs you or who has appointed you. If employed by a company, give the name of the company paying your wages or salary, not that of any ultimate holding company).

1.3 The name of the firm of which I am a partner:

(You should include the name of the firm(s) in which you have a business interest (or interests) as a partner.)

1.4 The name of the company to which I am a remunerated director:

(You should list under this heading the names of all companies in which you are remunerated as a director.)

1.5 The name of any person (other than the relevant authority) who has made a payment to me in respect of my election or any expenses incurred by me in carrying out my duties:

(You should include under this heading any names of any person or political parties who have made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties, e.g. a member is expected to register the name of any person, or political party, who helped to fund his/her election campaign. There is however no need to register the payment of legitimate expenses by the Borough Council.)

1.6 The name of any corporate body which has a place of business or land in the authority's area, and in which I have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issues share capital of that body:

(Give the names of any companies, industrial and provident societies, co-operative societies or other corporate bodies which have any business or land in Tamworth Borough and in which your beneficial interest exceeds £25,000 or 1/100th of the

total issued share capital. The key point is that the nominal value of the shares is taken account, not the market value of such shares. Classes of securities include shares, bonds and future/options dealing. The nominal value of shares is the face value of those shares (i.e. the value recorded on the share certificate).

The registration of any PEPs, ISAs or pensions which a member has is not necessary unless, given the above criteria, the member knows the companies in which his/her PEP, ISA or pension fund was invested and that:

- 13 those companies have a place of business or land in the authority's area; and
- 14 the member's beneficial interest in the investment was greater than the levels indicated above

You are only required to register interests which are known to you. The Code does not require you to investigate the investment portfolio of any PEP, ISA or pension scheme to which you may belong.)

1.7 A description of any contract for goods, services or works made between the authority and myself or a firm of which I am a partner, a company of which I am a remunerated director, or a body of the description specified in sub-paragraph 1.4) above:

(You should include under this heading all relevant contracts entered into with the Borough Council. If you have been awarded a contract but no financial agreement has, as yet, been signed, it is good practice to declare the same and to advise the Monitoring Officer of any amendment to the Register as and when the contract has been formally signed. Equally, if the contract is terminated (for whatever reason) or comes to an end, the member should notify the Monitoring Officer in writing of the change to the Register within 28 days of such event.)

1.8 The address or other description (sufficient to identify the location) of any land in which I have a beneficial interest and which is in the area of the authority:

(If you live within the Borough of Tamworth, your home property address should be included under this heading. Beneficial interest includes a mortgage interest in a property, including a tenanted interest, whether as a landlord or tenant. All relevant interests in the Borough must also be declared in addition to your home address.)

1.9 The address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which I am a partner, a company of which I am a remunerated director, or a body of the description specified in sub-paragraph 1.4) above:

(You will need to include details of any tenanted land that you hold from the Borough Council. You may hold such land in your personal capacity or as a partner of a firm, a company of which you are a remunerated director or of any other legal body. Sufficient details of any such land need to be given to identify the same.)

1.10 The address or other description (sufficient to identify the location) of any land in the authority's area in which I have a licence (alone or jointly with others) to occupy for 28 days or longer:

(You will need to include details of any licence to occupy land or premises in the Borough Council's area for 28 days or longer. Temporary occupations of less than 28 days do not, therefore, need to be declared on the form. It is also important to recognise that the occupation by you may be in joint or several names.)

2 Section B – Other Interests

In accordance with the Local Government Act 2000, I hereby give written notification to Tamworth Borough Council's Monitoring Officer of my membership of or position of general control or management of any of the following:

2.1 A body to which I have been appointed or nominated by the authority as its representative:

(You should declare membership of, a position of general control or management in, any bodies to which you have been appointed by the Borough Council. This will not include Committees which are part of the Borough Council. You must however include any company directorship or other representation if you have been appointed or nominated by the Borough Council as its representative on such company.)

2.2 Public Authority or body exercising functions of a public nature:

(It will be necessary for you to include your membership or position of general control of such organisations as (inter alia) health authorities, police authorities, housing associations, statutory undertakers, magistrates, County Council, Parish Council(s); and the Local Government Association (including WMLGA).

2.3 Company, industrial and provident society, charity or body directed to charitable purposes:

(Membership of or position of general control or management of any company, industrial and provident society, charity or body directed to charitable purposes need to be inserted here. These bodies are those on which you serve in your own capacity as opposed to being appointed or nominated by the Borough Council as its representative. The latter needs to be included within section B a) as indicated earlier. Equally, charitable purposes includes educational establishments and, as such, school governorships need to be declared.)

2.4 Body whose principal purposes include the influence of public opinion or policy:

(You should mention here membership of any relevant political parties and other relevant public opinion or policy/pressure groups.)

2.5 Trade union or professional association:

(You need to include on the form your membership of any trade union or professional association, e.g. National Union of Teachers; the Law Society or the British Medical Association.)

2.6 Private club or society such as freemasons, recreational club, working men's club or private investment club:

(You should include on the form your membership of any private club or society such as freemasons, recreational club, working men's club or private investment club.)

NOTES

Societies registered under the Industrial and Provident Societies Act 1965 are bodies corporate with limited liability and are known as “industrial and provident societies”. To qualify as such a society, its membership should not be less than three. A society with any withdrawable share capital shall not carry on the business of banking. Otherwise a society for carrying on any industry, business or trade, whether wholesale or retail, is regarded as an industrial or provident society if that society is a bona fide co-operative society, or if the society is or is intended to be conducted for the benefit of the community. A society’s rules must contain provision in respect of matters mentioned in schedule 1 of the above Act, and the society’s registered office must be in Great Britain or the Channel Islands. Examples, some leisure trusts, some working men’s clubs and some housing associations.

A trade union means an organisation, whether temporary or permanent, which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers’ associations. A trade union can also mean an organisation, whether temporary or permanent, which consists wholly or mainly of constituent or affiliated organisations which fulfil the conditions mentioned in the previous sentence, or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions or representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between workers and employers, or between workers and employers’ associations, or the regulation of relations between its constituent or affiliated organisations.

If a legal body to which you have been appointed or nominated by the Borough Council subsequently appoints or nominates you to another company, industrial and provident society, charity or body directed to charitable purposes, then that other body must also be declared in Section B c).

Members must inform the Monitoring Office in writing, and within 28 days, of any changes or additions which should be made to their entries in the Register of Members’ Interests.

Declaring an interest in the Statutory Register of Members’ Interests form does not remove the duty on the member to declare the interest at any relevant meeting of the Borough Council, the Cabinet, Committees etc.

6 Part 6 - Members' Allowances Scheme

The Tamworth Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:-

This scheme may be cited as the Tamworth Borough Council Members' Allowances Scheme, and shall have effect for the year commencing on 1st April 1999 and subsequent years.

In this scheme:

“Councillor” means a Member of the Tamworth Borough Council who is a Councillor;

“Year” means the 12 months ending with 31st March.

6.1 Basic Allowance

Subject to Paragraph 6, for each year a basic allowance of £5,120 shall be paid to each Councillor.

6.2 Special Responsibility Allowances

6.2.1 For each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are specified in Schedule 1 to this Scheme.

6.2.2 Subject to paragraph 8, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.

6.2.3 A Councillor shall be entitled to claim only one special responsibility allowance

6.3 Renunciation

A Councillor may by notice in writing given to the Corporate Director - Resources elect to forego any part of his/her entitlement to an allowance under this scheme.

6.4 Part-year Entitlements

6.4.1 The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

6.4.2 If an amendment to this scheme changes that amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- (b) beginning with the day on which amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year;
- (c) the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year.

6.4.3 Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.

6.4.4 Where this scheme is amended as mentioned in sub-paragraph (2) and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such part of the basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with the sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.

6.4.5 Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.

6.4.6 Where this scheme is amended as mentioned in sub-paragraph (2) and a Councillor has during part, but does not have throughout the whole, or any period mentioned in sub-paragraph (2) (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillors entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

6.5 **Payments**

6.5.1 Payment shall be made in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one-twelfth of the amount specified in this scheme on the 20th day of each month;

6.5.2 Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance

would result in the Councillor receiving more than the amount to which, by virtue of Paragraph 8 he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

6.6 Approved Duties

An “approved duty” means a meeting of the authority or of any Committee or sub-Committee or of any other body to which the authority makes nomination or any other duty approved by the Solicitor to the Council after consultation if necessary with the Cabinet, for the purpose of or in connection with the discharge of the functions of the Committee, or any of its Committees or sub-Committees or any duty of a class so approved

6.7 Travelling and Subsistence

Payment to Councillors and Co-optees for travelling and subsistence will be made in accordance with the rates payable to Officers under the NJC casual mileage scheme where expenditure is incurred for the purpose of performing any approved duty.

6.8 Attendance at Conferences and Training Events

The Solicitor to the Council, after consultation with the Cabinet if necessary, may approve the payment of the cost of attendance at Conferences and Training Events and the payment of travelling, subsistence and attendance allowance(s) in accordance with the rates prescribed by the Secretary of State

6.9 Childcare and Dependent Relatives Allowance

Payment for childcare and dependent relatives’ allowance will be in accordance with Schedule 2

6.10 Claims Payment

Claims for travelling, subsistence and attendance allowance(s) should be submitted to Democratic Services in writing on a form approved by the Executive Director Corporate Services.

6.11 [Variation

This Scheme shall be varied from 1st April 2000 and on the 1st April in each subsequent year by the amounts payable by way of basic or special responsibility allowance being increased by an amount equivalent to the increase in the preceding period of twelve months of the earnings of all Local Authority employees.]

6.12 Local Government Superannuation Scheme

All Members of the Council shall be entitled to pensions in accordance with the scheme made under Section 7 of the Superannuation Act 1972. Both the Basic Allowance and Special Responsibility Allowances shall be treated as amounts in respect of which such pensions are payable in accordance with the said superannuation scheme.

SCHEDULE 1

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances or such uprating as may subsequently be agreed :-

Leader of the Council	£12,814
Deputy Leader of the Council	£9,610
Member of Cabinet (other than Leader and Deputy)	£8,329
Chairmen of Scrutiny Committees	£5,766
Vice Chairmen of Scrutiny Committee	£1,193
Chairman of Planning Committee	£5,766
Chairman of Licensing Committee	£5,766
Independent Member	TBA
Chairman of Audit and Governance Committee	£1,922
Leader of the (larger) Opposition Group	£5,766
Deputy leader of the (larger) Opposition Group	£3,203
Co-optees	£311

SCHEDULE 2

CHILDCARE AND DEPENDENT RELATIVES ALLOWANCE

A Childcare and Dependent Relatives Allowance shall be paid to those Councillors incurring costs for the care of a dependent relative or child in the course of, or to permit, the undertaking of his or her duties as a councillor when attending official Council meetings.

Dependants are defined as:

- children under the age of 14 for whom the councillor is normally responsible.
-
- elderly, ill or disabled dependants who require full time care and for whose care the councillor is normally responsible.

[The claim for payment must be for actual expenses incurred, for carers over age 22 at a rate of £5.73 CHECK RATES per hour and carers aged 18-21 at a rate of £4.77. Claims shall also be indexed to the minimum wage. All claims shall be made on the attached form, Annex 1.]

The Council has discretion to consider payment of an amount exceeding the amount specified in 3. above if special circumstances apply.

ANNEX 1

(a) TAMWORTH BOROUGH COUNCIL

APPLICATION FOR PAYMENT OF CHILDCARE AND DEPENDENT RELATIVES ALLOWANCE

COUNCILLOR.....

DESCRIPTION OF APPROVED DUTY.....

.....

DATE OF APPROVED DUTY.....

AMOUNT CLAIMED.....

I declare that to enable me to perform an approved duty I have necessarily incurred expenditure to provide care for a child aged 14 or under/*a dependant with a disability/*an elderly relative requiring care/*a dependant who is ill.

Signature of Councillor.....

Date.....

*Delete as appropriate

Please return this form to Democratic Services

Corporate Management Team



Chief Executive
Tony Goodwin



Executive Director
(Corporate Services)
John Wheatley



Director
(Finance)
Stefan Garner



Solicitor to the Council
Jane Hackett



Director
(Technology & Corporate Programmes)
Nicki Burton



Director
(Transformation & Corporate Performance)
Anica Goodwin



Director
(Communities, Planning & Partnerships)
Rob Mitchell



Director
(Housing & Health)
Rob Barnes



Director
(Assets & Environment)
Andrew Barratt

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