

# NON-CONFIDENTIAL



## **Borough of Tamworth**

7 December 2020

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 15TH DECEMBER, 2020** at 6.10 pm in the **ONLINE MEETING**, for the transaction of the following business:-

### **AGENDA**

#### **NON CONFIDENTIAL**

- 1 Apologies for Absence**
- 2 To receive the Minutes of the previous meeting** (Pages 5 - 18)
- 3 Declarations of Interest**

*To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.*

*When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.*

- 4 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive**
- 5 Question Time:**
  - (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
  - (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

**6 Petition: Bench – Wigginton Cemetery**

*(Update from the Portfolio Holder for Culture and Operational Services – to follow)*

- 7 To consider a motion regarding a Local Referendum, notice of which has been duly given in accordance with Procedure Rule no. 4.12.1 by Councillors J Faulkner, K Norchi, S People, Dr S People and P Standen (Pages 19 - 20)**

*Further details are in the attached document.*

- 8 To consider a motion to Enjoy Fireworks Responsibly, notice of which has been duly given in accordance with Procedure Rule no. 4.12.1 by Councillors Dr S People, J Faulkner, S People, P Standen, C Cooke, R Bilcliff and D Box (Pages 21 - 22)**

*Further details are in the attached document.*

- 9 Local Council Tax Reduction Scheme 2021/22 onwards (Pages 23 - 44)**

*(Report of the Portfolio Holder for Assets and Finance)*

- 10 Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2020/21 (Pages 45 - 66)**

*(Report of the Portfolio Holder for Assets and Finance)*

- 11 Review of the Constitution and Scheme of Delegation (Pages 67 - 346)**

*(Report of the Portfolio Holder for Assets and Finance and the Monitoring Officer)*

Yours faithfully

A handwritten signature in black ink, appearing to be 'A. B.', followed by a long horizontal line extending to the right.

**CHIEF EXECUTIVE**

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**Access arrangements**

*If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk). We can then endeavour to ensure that any particular requirements you may have are catered for.*

## **Filming of Meetings**

*The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.*

*The Protocol requires that no members of the public are to be deliberately filmed. Where possible, an area in the meeting room will be set aside for videoing, this is normally from the front of the public gallery. This aims to allow filming to be carried out whilst minimising the risk of the public being accidentally filmed.*

*If a member of the public is particularly concerned about accidental filming, please consider the location of any cameras when selecting a seat.*

## **FAQs**

*For further information about the Council's Committee arrangements please see the FAQ page [here](#)*

Marmion House  
Lichfield Street  
Tamworth

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## **MINUTES OF A MEETING OF THE COUNCIL HELD ON 27th OCTOBER 2020**

**PRESENT:** Councillor , Councillors M Oates, M Bailey, D Box, P Brindley, J Chesworth, R Bilcliff, T Clements, D Cook, M Cook, C Cooke, S Doyle, A Farrell, J Faulkner, R Ford, S Goodall, M J Greatorex, T Jay, K Norchi, J Oates, S Peuple, Dr S Peuple, R Pritchard, S Pritchard, R Rogers, P Standen, M Summers and P Thurgood

The following officers were present: Andrew Barratt (Chief Executive), Zoe Wolicki (Assistant Director People), Rebecca Neill (Head of Audit & Governance and Monitoring Officer), Tracey Pinton (Legal Admin & Democratic Services Manager), Jodie Small (Legal, Democratic and Corporate Support Assistant) and Adam Deakin (Technical Infrastructure Engineer)

Apologies received from: Councillor(s) R Claymore, R Kingstone and B Price

### **22 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 15<sup>th</sup> September 2020 were approved and signed as a correct record.

*(Moved by Councillor D Cook and seconded by Councillor Dr S Peuple)*

### **23 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

### **24 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE**

**Councillor J Oates announced the following;**

“Thank you Mr Deputy Mayor. Just a very brief announcement.

We have been informed this afternoon that Tamworth and the whole of Staffordshire will be escalating on the COVID-19 risk and tiers and we will be moved to high risk, which means we will move to a tier two regime, we believe this will be at one minute past midnight on Saturday morning. We will have suitable communication sent out to all members over the next 24 hours.

The key differences in where we are at now is we will not be able to mix or meet family or friends outside of our household indoors, that does mean however you can still go for a meal with your household in a pub or a restaurant but you can't mix with households indoors. You could still meet people in the park just socially distanced.

The other key thing is that care homes will be asked to restrict their visiting to essential visits only.

They are the key changes when we move up to tier two. As I said communications will be sent out to all members and the public tomorrow.

I will just repeat that Tamworth and the rest of Staffordshire has now tripped into high risk in terms of the Covid pandemic and we are now operating at a tier two level. Thank you Mr Deputy Mayor."

## 25 QUESTION TIME:

### QUESTIONS FROM MEMBERS OF THE COUNCIL NO.1

**Under Procedure Rule No 11, Councillor T Clements will ask the Portfolio Holder for Neighbourhoods, Councillor M Cook, the following question:-**

"On 24th May 2020 plans were unveiled by the housing secretary Robert Jenrick MP to commit to providing 3500 units for rough sleepers and a budget of 160 million for 20/21. Can I ask the portfolio holder how the 'everyone in' initiative worked here in Tamworth during lockdown?"

**Councillor M Cook gave the following reply:-**

"Thank you Mr Deputy Mayor.

Thanks also to Cllr Clements for her question.

Preventing homelessness and helping people, often some of the most vulnerable in society, accessing suitable housing is part of Tamworth's core strategic purpose.

Despite the national crisis facing our communities as a result of the pandemic, never more has our commitment been higher to supporting national, regional and local efforts to prevent homelessness.

The topic of the 'Everyone In' initiative was discussed at length in the meeting of Health and Wellbeing Scrutiny on 24<sup>th</sup> September. I'm aware Cllr Clements wasn't able to attend this meeting due to another commitment, however, from our conversations, it is clear you are fully versed in the outputs from this meeting.

In terms of Tamworth specifically, during "the everyone in" initiative, we supported 16 vulnerable people and put in place to support the wider homeless strategy, a number of measures including:

A free phone number set up for Rough sleepers to ensure the service is accessible to all.

All Night shelter guests were accommodated at the point the country went into lock down and the shelter was forced to close. In total, accommodation was sought for 7 rough sleepers. No one returned to Rough Sleeping, a bed was secured for all.

We purchased 5 rooms in local B&B's for 16 weeks, with unoccupied and occupied nightly rates negotiated in order to save money.

All placements into B&B and Temporary Accommodation (TA) are now completed remotely and virtually to protect people from becoming infected.

The Supported Housing Team from Ellerbeck and Chestnut Court provided support to those in TA stock, as well as those living in those units.

Continuing our detailed work with key partners such as social services to support vulnerable care leavers, Ministry of Justice (MOJ); prisoners due to early release requirements and hospitals to ensure no one returns to rough sleeping.

COVID-19 secure checklist through risk assessments and offering PPE to those in B&B and having self-contained units available for those high risk clients.

Plus we worked with all our normal partners, as well as third sector groups to support anyone who was at risk of homelessness.

I will just remind members of Health and Wellbeing that Cllr Ford has also asked for observations and feedback by the 3<sup>rd</sup> November so officers can integrate this into the Homelessness & Rough Sleeping Strategy set to be considered by Cabinet on 3<sup>rd</sup> December 2020. Thank you Cllr Clements for your question, I'm happy to take a supplementary."

**Councillor T Clements asked the following supplementary question-**

"As we are all too aware we have people on our streets perceived to be homeless but are actually beggars, they are often seen with a vessel in front of them and although they may not be physically asking for money this is still classed as active begging. Please can the Portfolio Holder provide the figures for how many CPWs, CPNs or CBO notices have been issued if any to help stop this criminal offences and if necessary signpost these people to the right help."

**Councillor M Cook gave the following reply:-**

"Thank you Mr Deputy Mayor and thank you Councillor Clements for the supplementary and also the early sight of this to enable me to get the information requested. We have successfully issued one CPN notice for a person who was

falsely claiming to be homeless in Middle Entry, this individual was subsequently prosecuted and issued with both a fine and a criminal record. The person was fully known to all services and is now compliant and has been successfully dealt with, although still has many of the outstanding problems which led to this behaviour in the first place.

We currently have an outstanding prosecution with the police for another person who has breached conditions which were to fully engage with us and others including after having a house allocated and not falsely begging in Tamworth unfortunately this individual hasn't yet stopped doing so, so we are currently prosecuting.

CPNs are dealt with through the single justice protocol which enables the magistrate to consider the evidence without having to attend court we and the police always hoped that this approach would prevent further issues, however people should be aware that if this behaviour continues the police will always consider more serious charges which I fully support and I hope members do too.

I am conscious that Tamworth fortunately has a very low rough sleeping count but we do seem to attract a number of individuals that like coming to Tamworth to beg. I believe it's due to the fact that Tamworth residents are kind hearted enough to see someone in need and try to help by giving them a couple of pound to help them out, however can I please urge all members of the public not to do so, not because I'm cold hearted which some might claim but because these people like taking our residents for fools. Apparently an average taking for beggars in Tamworth Town Centre can be upwards of £200 a day that's £200 a day of hard-working, members of the public's money that is getting given to people that are sitting with a bowl in front of them, with a perfectly good house around them as well.

So if members of the public do see somebody and are concerned please speak to us as a Council or call the police. We will always try to engage With those individuals to understand their issues, not to jump to conclusions or issue sanctions but actually try and understand why this is the case and in all instances will encourage people to get the support that they need because as Councillor Clements rightly said it is about getting people that support and getting them underlying issue tackled. Thank you very much."

## **QUESTIONS FROM MEMBERS OF THE COUNCIL NO.2**

**Under Procedure Rule No 11, Councillor T Clements will ask the Portfolio Holder for Regulatory & Community Safety, Councillor S Doyle, the following question:-**

"The department for transport has launched a consultation on pavement parking and making pavements accessible to all. Cllr David Renard from the LGA has long called for the ban to be extended to all areas of England, not just London. When can we see some form of consultation here in Tamworth?"

**Councillor S Doyle gave the following reply:-**



“Thank you, Mr Deputy Mayor and Cllr Clements,

I’m aware of the consultation and believe this was covered previously, at the Full Council meeting on the 15<sup>th</sup> of September, where Cllr Bilcliff raised a very similar question.

To note the Government are looking to bring in regulations to support enforcement around parking on pavements and that the responsibility would still sit with Staffordshire County Council who are the Highways Authority and manage the civil enforcement.

Where there have been reports of concerns, we encourage that people report such concerns to Staffordshire County Council for consideration of a Traffic Regulation Order under current legislation.

For obstructive parking then Residents should also look to contact the Police, who have the authority to enforce obstructive parking where they believe it to be appropriate.

Tamworth Borough Council may be a member of PATROL, Parking and Traffic Regulations outside London, along with Staffordshire County Council.

Although the responsibilities for Tamworth Borough Council is limited to the management of its own car parks.

Also, to remind members the consultation process is still on-going and closes the 22<sup>nd</sup> of November this year.

I believe that Cllr Clements has taken up the option to participate in the consultation process and is championing the issue with members and Officers at the County Council.

Tamworth Council and Residents would welcome any improvements that can be made in resolving this issue by the County Council and Police.

Thank you, Mr Deputy Mayor & Cllr Clements”

**Councillor T Clements asked the following supplementary question-**

“I understand that most of the enforcement comes under the County Council remit obviously being a County Councillor. Does the Portfolio Holder agree that an overhaul of parking needs to be had with all partners working together so we know where the enforcement lies within each area of regulation? In a time where we are encouraging people to walk and cycle more, pavements need to be used for the right purpose and that’s for pedestrians. Thank you”

**Councillor S Doyle gave the following reply:-**

“Thank you Deputy Mayor and Councillor Clements.

Yes I agree we should.

From Tamworth's perspective we would look to publicise and support any measures taken by Staffordshire County Council and the police in dealing with this issue.

What we must remember though, the public have the freedom to own as many cars and vehicles as they choose which is at the hub of the problem.

Unfortunately, this has created a situation where many households now have 2, 3 or more vehicles this causes additional problems in the many areas/estates where the motor vehicle were never part of the original planning consideration or when included as part of the planning, having one car was considered a luxury rather than the normal.

Even today to purchase a home with ample parking for 3 or more cars can be expensive and beyond the range of the majority.

Thank you very much for your question Councillor Clements and Mr Deputy Mayor."

### **QUESTIONS FROM MEMBERS OF THE COUNCIL NO.3**

**Under Procedure Rule No 11, Councillor P Standen will ask the Leader of the Council, Councillor D Cook, the following question:-**

"Does the Leader of the Council support Marcus Rashford's campaign to extend free school meals for the poorest children into the holidays in Tamworth and the rest of England, and will he use his and this council's influence to continue the work to end child hunger in Tamworth?"

**Councillor D Cook gave the following reply:-**

"Thank you Mr Deputy Mayor,

I agree that the efforts by Marcus Rashford are indeed to his credit, but putting him aside as an individual for one minute. If the question is do I support the principle of ending child hunger, then of course, both this Council and myself support this principle fully. Members will be aware that at the start of the pandemic, extraordinary measures were put in place to help vulnerable children, including extending free school meals when schools were partially closed.

However, there are many ways of approaching this aim and I am confident at present these are being explored and used in Tamworth and wider Staffordshire. Thank you Mr Deputy Mayor."

**Councillor P Standen asked the following supplementary question-**

"Can I thank the Leader for his response?"

I never thought when I was younger that I would be speaking in public supporting a man united player

I understand that part of Tamworth and I hope the other charitable groups are working to prevent hunger in this half term in Tamworth for the Tamworth children.

Perhaps we as Councillors can bear this in mind when it comes to allocate our £300 community grants that we each have. Does the Leader of the Council agree with me that no parent in Tamworth or anywhere in the Country should fear school holidays during the winter period, facing the choice of whether to feed their family or heat their home? If so does he agree that the current levels of universal benefit should be increased to help remove food and fuel poverty? Thank you Mr Deputy Mayor.”

**Councillor D Cook gave the following reply:-**

As stated before, at the start of the pandemic, extraordinary measures were put in place by Government to help vulnerable children, including extending free school meals when schools were partially closed. However, now schools are operating as normal; we must continue to find ways, alongside free school meals, to ensure children do not go hungry. Extra steps have been needed during the pandemic to help families in our area, including over holiday periods.

Free School Meals are intended to support children while they are learning and 99 per cent of schools are now back open. During the holidays, families must have a robust safety net, which can help them cope with the extra pressures of coronavirus. At the start of the pandemic, key benefits were boosted by the Government by over £1,000 per year for 12 months, part of a £9.3 billion increase to the welfare safety net. Upper tier Councils have been given an extra £63m to help those families most in need.

As the pandemic evolves, the Government must remain open to additional support measures based on the need at the time. However, it is also important to be clear about what Parliament decided recently.

While there has been considerable coverage of what Parliament did not agree, there has been less attention to what it did agree and what Conservatives supported – but this does not sell papers

MPs backed the existing new package of support measures for families, which is worth billions on top of Free School Meals. Parliament endorsed ongoing activities to help the most vulnerable children in society.

Anyone following the debate will see as the need has changed during the pandemic, so support has too. Indeed, the day after this parliamentary debate, which carried no weight in terms of being legally binding, new job support measures were announced. The Government is to continue in this spirit to support the most vulnerable children in a range of ways.

I know that many families are going through tough times at the moment, and this is reflected in the increasing numbers of children being registered for free school

meals. I am reassured that substantial support, such as increased universal credit among other measures, has already been put in place to help families through this crisis and to ensure children and their families do not go hungry.

I also very much welcome the recent announcement by Staffordshire County Council that thousands of low-income families in Staffordshire will be offered financial support over the October half term. This will be in the form of a £15 voucher to the families of up to 18,000 children, which can be used in major supermarkets on food or essential supplies. The scheme will be administered through schools and will be available to families of children who are eligible for free school meals during term time.

Now before anyone assumes the County Council is just bailing out Government. The money comes from £823,000 they were allocated in August from the 'Covid 19 Local Authority Emergency Assistance Grant for Food and Essential Supplies'. This is in line with the purpose of the grant as set out in the DEFRA guidance

They had not spent their whole allocation, and so Conservatives wanted to make use of it for families in need. The sequence of events, which led up to this is as follows:

- Wednesday 7 Oct – Discussion about the proposal to use the fund for FSMs at Pre-cabinet Cabinet.
- Thursday 8 Oct – Decision trailed at Full Council by Mark Sutton in response to a question from Sue Woodward. Mark makes clear in his response to Sue's supplementary question that we were considering Free School meals.
- Wednesday 15 Oct – Letter to all Head teachers notifying them of the Staffordshire Free School Meals scheme would continue in October half term,
- Thursday 21 Oct at 10.49am – Press release out to all MPs. A short time later, it was uploaded to the Staffordshire Newsroom on their website for all to see.
- Thursday 21 Oct at 4.32pm – Debate begins in Parliament with a vote at 6.59pm.

Parents across the country have been going through a particularly difficult and stressful time recently and so I am pleased that the Country Council are offering this unprecedented support. Thank you Mr Deputy Mayor."

#### **QUESTIONS FROM MEMBERS OF THE COUNCIL NO.4**

**Under Procedure Rule No 11, Councillor Dr S People will ask the Leader of the Council, Councillor D Cook, the following question:-**

"Since the announcement by the Staffordshire Police and Crime Commissioner that the site of the former Tamworth Police station was being put up for sale; what steps has Tamworth Borough Council taken regarding the future of this property, given that it is integral to the "Gungate Masterplan" drawn up by the consultants?"

**Councillor D Cook gave the following reply:-**

“There have been discussions between Staffordshire Police and Tamworth Borough Council in relation the Council acquiring the police station. Offers have been made to purchase the police station on a commercial basis, unfortunately we have not been able to agree on a purchase price and as a result Staffordshire Police decided to market the property through an agent.

We are reviewing the market for the property and may make further offers through the appointed agent if appropriate. Ideally the Council would like to work with Staffordshire Police to reach an agreement for the transfer of the property but it will also need to consider other options available to it in order to acquire the site if required as part of the wider development. This could include CPO, but we would rather work in partnership

I have had many personal conversations with the PFCC Matthew Ellis to ensure we work as closely as possible to ensure the site works for both parties and especially the people of Tamworth.”

**Councillor Dr S Peale asked the following supplementary question-**

“Thank you Mr Deputy Mayor. I’m pleased to hear the Leader of the Council say that he is still wanting to negotiate a settlement but I’m also pleased to hear that he has put on record tonight the use of a Compulsory Purchase Order remains an option and I would ask him whether he agrees with me that that the police and crime commissioner has to bear in mind that ultimately the needs of the town as a whole will come first? Thank you Mr Deputy Mayor.”

**Councillor D Cook gave the following reply:-**

“Thank you Mr Deputy Mayor. Having had many conversations with Matthew Ellis the Police and Crime Commissioner I can assure all members that Matthews’s heart is still true to ensure the residents of Staffordshire and especially Tamworth are certainly put at the forefront of anything that happens.

Discussions do go on, We need to ensure that both parties, the police and the Council gain benefit but as said we especially need to work together to ensure the site delivers as best as it can for the people of Tamworth thank you.”

**QUESTIONS FROM MEMBERS OF THE COUNCIL NO.5**

**Under Procedure Rule No 11, Councillor Dr S Peale will ask the Portfolio Holder for Assets and Finance, Councillor R Pritchard, the following question:-**

“Whilst I appreciate that Covid 19 will have disrupted the timetable for the review of corporate assets, the community centre in the Leyfields was empty for a long time before Covid. Please would you inform the Council about your plans for the centre going forward?”

**Councillor R Pritchard gave the following reply:-**

“Thank you Mr Deputy Mayor,

Since the centre became vacant we have seen several expressions of interest but none of these have progressed as they have proven not to be viable.

We are in the process of inviting tenders for a condition survey of the Councils non-housing property portfolio.

This work is due to commence in early 2021 and will be used to inform the investment requirements for the stock which in turn will be used in the development of the wider Asset Management Strategy.

The strategy is likely to result in a series of Asset Management Plans and options appraisals; the future of assets such as the Leyfields community centre will be considered within this project.

In deciding the future of the building we will of course consider the needs of the wider community.”

**QUESTIONS FROM MEMBERS OF THE COUNCIL NO.6**

**Under Procedure Rule No 11, Councillor S Peple will ask the Chair of Health and Wellbeing Scrutiny Committee, Councillor R Ford, the following question:-**

“Would the Chair agree with me that the commitment by University Hospitals of Derby and Burton NHS Foundation Trust to deliver more services at the Sir Robert Peel is a welcome step forward?”

**Councillor R Ford gave the following reply:-**

“The commitment by the UHDB NHS Foundation Trust to provide additional services at the Sir Robert Peel Hospital is incredibly welcome.

The presentation received by the UHDB NHS Foundation Trust at the Health and Wellbeing Scrutiny Committee on 20/10/20 highlighted some of the new services that have already been provided, as well as plans for additional services in the future. I believe this shows that they are dedicated to community hospitals and this can only be considered a benefit to residents of Tamworth.

Residents of Tamworth have my assurance that the Health and Wellbeing Scrutiny Committee will continue to work with all partners, to champion the Sir Robert Peel Hospital and press for further services to be made available locally.”

The Report of the Leader of the Council provided an updated Diversity and Equality Scheme which gives assurance that systems or work streams are in place where required in order that Tamworth Borough Council embraces equality and diversity and remains compliant with legislation.

**RESOLVED** That Council;

Approved the Diversity and Equality Scheme 2020 – 2024 and incorporated action plan for immediate implementation and publication.

*(Moved by Councillor D Cook and seconded by Councillor Dr S Peaple)*

## **27 PAY POLICY STATEMENT 2020**

The Report of the Leader of the Council detailed Tamworth Borough Council's Pay Policy Statement so that statutory guidance as set out in S38 of the Localism Act is adhered to.

**RESOLVED** That;

The Pay Policy Statement 2020 was formally approved by Council for adoption and publication in line with the Localism Act 2011.

*(Moved by Councillor D Cook and seconded by Councillor Dr S Peaple)*

## **28 REGULATION OF MEMBERS CONDUCT**

The Report of the Monitoring Officer advised Members of the number of complaints received for the period 01 May 2019 until 30 April 2020 in relation to alleged breaches of the Members' Code of Conduct arising from implementation of Part 1 Chapter 7 of the Localism Act 2011 which introduced provisions to assist with the regulation of standards of conduct for elected and co-opted Councillors.

**RESOLVED** That;

Council endorsed the findings of this report.

*(Moved by Councillor D Cook and seconded by Councillor Dr S Peaple)*

## **29 ANNUAL REPORT OF THE AUDIT & GOVERNANCE COMMITTEE**

The Chair of Audit and Governance presented the Annual Report of the Audit & Governance Committee 2019/20 for Council's endorsement

**RESOLVED** That;

The Annual Report of the Audit & Governance Committee 2019/20 was endorsed.

*(Moved by Councillor M Summers and seconded by Councillor J Faulkner)*

### **30 SCRUTINY COMMITTEE 2019-2020 ANNUAL REPORTS**

Following circulation to all councillors by email on 2 July 2020, the attached Annual Reports were presented to Council by the Scrutiny chairs to formally update Council on the activities of the Corporate Scrutiny, Infrastructure Safety & Growth Scrutiny and Health & Wellbeing Scrutiny Committees over the year 2019/20 which included,

- Chair's overview
- Working Groups
- Recommendations made in the year to Cabinet
- Committee Terms of Reference
- Membership and Attendance
- Training & Effectiveness
- Work Plan
- Resource implications

#### **Corporate Scrutiny**

**RESOLVED** That Council;

Noted the Annual Report of the Committee

Noted the updated process for production and consideration of this Annual Report;

Noted a particular thank you to the Democratic Services Officer and to all Committee members for the hard work and positive contributions during the year.

*(Moved by Councillor T Jay and seconded by Councillor R Bilcliff)*

#### **Infrastructure, Safety & Growth**

**RESOLVED** That Council;

Noted the Annual Report of the Committee

Noted the updated process for production and consideration of this Annual Report;



The Chair of Infrastructure, Safety & Growth thanked the Committee, Officers and Portfolio Holders for their hard work on the Committee.

*(Moved by Councillor S Goodall and seconded by Councillor Dr S Peaple)*

### **Health and Wellbeing**

**RESOLVED** That Council;

Noted the Annual Report of the Committee

Noted the updated process for production and consideration of this Annual Report.

The Chair of Health and Wellbeing also thanked all members of the Committee for their invaluable contributions and a mention of thanks was given to the Democratic Services Officer.

*(Moved by Councillor R Ford and seconded by Councillor P Brindley)*

### **31 OUTSIDE BODIES**

**RESOLVED** That Council;

Endorsed the Outside Bodies List 2020/2021.

*(Moved by Councillor D Cook and seconded by Councillor Dr S Peaple)*

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The Mayor

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**Council meeting – 15th December 2020**

**Motion on Notice – Local Referendum**

**We propose the following motion that before acceptance of any re-organisation, merger or other arrangement which would result in Tamworth Borough Council being merged or otherwise combined with other local authorities bodies, that the matter be put to the electors of Tamworth in a local referendum**

**Supported by**

**Councillors John Faulkner, Ken Norchi, Sheree Peaple, Simon Peaple, Pat Standen**

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## Council meeting – 15<sup>th</sup> December 2020

### Motion on Notice – Enjoy Fireworks Responsibly

This Council notes the enjoyment many people gain from firework displays and the major strides made in improving safety. In order to balance the wishes of those who enjoy fireworks responsibly with the needs of others, this Council resolves;

- 1) to require all public firework displays within the Tamworth Borough Council area to be advertised in advance of the event, to allow vulnerable people to take precautions; and for those with responsibility for animal welfare (livestock and pets) to be able to take precautions on their behalf
- 2) to actively promote a public awareness campaign regarding the precautions which can be taken to mitigate the impact of fireworks on vulnerable people and animals
- 3) to write to the UK government asking them to limit the noise level of fireworks sold to the public for private display to 90dB and to reduce the period of sale of fireworks for private displays to 25 October – 10 November
- 4) to encourage local suppliers of fireworks to stock 'quieter' fireworks for sale to the public for private display.

#### **Supported by:**

Councillors Dr S Peuple, J Faulkner, S Peuple, P Standen, C Cooke, R Bilcliff , D Box

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## CABINET

THURSDAY, 3<sup>RD</sup> DECEMBER 2020

## COUNCIL

TUESDAY, 15<sup>TH</sup> DECEMBER 2020

### REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE

#### LOCAL COUNCIL TAX REDUCTION SCHEME 2021/22 ONWARDS

#### EXEMPT INFORMATION

This proposal is not exempt information for the purposes of Part 1 of Schedule 12 (A) of the Local Government Act 1972

#### PURPOSE

To advise members that the Local Council Tax Reduction Scheme for working age customers for 2021/22 should include continued alignment to Applicable Amounts with those of Housing Benefit.

#### RECOMMENDATIONS

1. That Council consider and endorse or otherwise the proposed recommended changes detailed below:
2. That the planned review for the introduction of a banding scheme for Council Tax Reduction be deferred until 2021 and that the current scheme for working age customers continues to be aligned to Applicable Amounts with those of Housing Benefit for 2021/22.

#### EXECUTIVE SUMMARY

This report updates Members on the proposals to review the Local Council Tax Reduction Scheme (LCTRS) for implementation on 1 April 2021.

Proposals were submitted to Corporate Scrutiny committee on 14<sup>th</sup> November 2019 for a need to review the current Council Tax Reduction Scheme along with three modelled options with the aim to finalise a new scheme for consultation this autumn.

The proposal was to replace the current 'traditional scheme' for working age claimants which was modelled in 2012 (and implemented in April 2013) based on the national Council Tax Benefit and has had various amendments made annually to continue to align to legislation changes in Housing Benefit.

The national scheme regulations continue for pensioners, which mirror the obsolete Council Tax Benefit Scheme.

At the meeting, Members reviewed the proposals in detail and asked for further modelling to be carried out (for up to 100% supported scheme) and reported back to committee in 2020.

However, in light of the unprecedented situation following the COVID-19 Pandemic, it is now suggested that the review be postponed until 2021 when the situation will be clearer. The potential longer-term consequences of recession and unemployment on demand for the scheme have yet to be experienced. It will be many months before we have a clearer idea on how the economy has responded to the recovery process including any lasting effects for individual businesses and their employees.

Reports recommending this approach were considered and approved by the Corporate Scrutiny on 25<sup>th</sup> August 2020 and Cabinet on 10<sup>th</sup> September 2020.

## **OPTIONS CONSIDERED**

The current scheme for most working age customers bases an award on a maximum of 75% of their Council Tax liability. Those who receive a Severe Disability Premium, or who have a disabled child and those who receive a War Widows/War Disability Pension or Armed Forces Compensation Scheme payment have their awards based on 100% of their liability, known as Protected Groups.

Pensioners also continue, under the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, to have their awards based on 100% of their Council Tax liability.

Members at both Cabinet and Corporate Scrutiny Committee meetings had previously reviewed proposals to introduce a Banded Scheme, for implementation in 2021/22, starting on 1 April 2021, which would remove much of the complexity associated with the current scheme, whilst at the same time maintaining fairness and equality in the way in which awards are distributed amongst Council Tax payers. Further reports were due to be submitted to both Cabinet and Corporate Scrutiny, to include detailed cost forecasting and scheme principles with the aim to finalise a new scheme for Public consultation in autumn 2020.

However, in light of emerging issues from the COVID-19 pandemic, the potential implications for the scheme need to be considered.

The current 'traditional scheme' has largely been unaffected by the changes to the Welfare system as announced by the government in response to the outbreak of COVID19. The current scheme has been able to react quite quickly to the changes in claimants' income, therefore ensuring that they have not lost any Council Tax Reduction. For example, the government in response to COVID19 announced that the standard allowance of Universal Credit would increase by £1000pa. Under the current traditional LCTR scheme, this had the effect of increasing the applicable amount by the equivalent UC increase and therefore had no detrimental effect any entitlement to Council Tax Reduction. Under a banding scheme this additional income could have had the effect of dropping a claimant into a lower council tax income band and thereby reducing CTR entitlement between 20-25% depending on the banding scheme percentage bands. In order to compensate each claimant for any loss to



their Council Tax Reduction, for each claim affected, the funding would have to be made from out of the Council's own budgets / Hardship Fund which would be insufficient to cope with the additional demand.

In addition, there has been and still is much uncertainty, of the effects of the Furlough scheme which was recently extended to March 2021 after being introduced in August to run initially to the end of October. Before this announcement was made, from around mid-October, there was a significant increase in benefit applications as employers were clearly faced with the decision on what to do with their furloughed employees. There may be further impact on the welfare system yet to come, and around the uncertainty of how the economy recovers and when.

To attempt to model a new Council Tax Reduction Banding scheme at this point in time would be a constant moving target. LCTR applications have increased by around 500% from late March which has resulted in the working age claim base increasing from 2613 in February to 3081 in October. As a result, expenditure of the scheme has also increased from £4.1m in 2019/20 to £4.5m (of which £2.1m relates to pensioners).

Continued alignment of the scheme with applicable amounts for the Housing Benefit scheme should be considered. This is not a legislative requirement for those of working age, but a decision for this Council. This will prevent confusion between schemes and reduce administrative burdens. Furthermore, it would reflect any cost of living rises allowed by the Government.

**In light of the proposals contained within this report, there are no proposed changes to the scheme for 2021/22 other than the usual alignment with Housing benefit which is a minor change and did not require a formal consultation.**

## **RESOURCE IMPLICATIONS**

Latest figures confirm that £4.51m has so far been awarded in Local Council Tax Reduction (LCTR) for 2020/21, to both working age and pensioner customers of which £2.4m relates to working age claimants. The live caseload has increased by approximately 17% since January 2020, which is as a direct consequence of the COVID-19 pandemic. However, many of the existing claims have also seen an increase in the amount of LCTRS they receive due to loss of income.

The Welfare Reform Act abolished Council Tax Benefit from 1 April 2013. It was replaced by a new Local Council Tax Reduction Scheme for working age customers. A national scheme of regulations was introduced for pensioners, which mirrors the obsolete Council Tax Benefit Scheme.

Grant funding was reduced and is distributed by the Ministry of Housing, Communities and Local Government rather than the Department for Work and Pensions. Outturn for the 2019/20 scheme was £4.14m of which the Authority's share was £426k (10.3% of the impact on the Collection Fund). At inception, the scheme design was modelled to ensure that the Authority complied with the Central Government requirement to achieve a 10% reduction in benefit cost but without increasing the burden of cost to the Council Tax Payer. However, it

has been assumed that Revenue Support Grant (RSG) will cease to be paid from 2022 and the Council will have to fund the scheme from its own resources and retained Business Rates income in the future.

The impact of grant funding and expenditure is closely monitored on a regular basis to identify whether the scheme is achieving its objectives but also not increasing cost burdens to the Medium Term Financial Strategy. The current maximum level of award under the existing scheme is 75%. Current financial modelling indicates that although grant levels are reducing the scheme maxima should not be changed for the 2021/22 scheme as it would add further potential hardship to claimants. This position is under regular review. Members should be aware of the impact of the Central Government Grant reductions when formulating the scheme for 2021/22 as any subsequent changes to the scheme governance arrangements, would require a consultation exercise.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

The Ministry of Housing, Communities and Local Government have confirmed that consultation on the scheme is not required annually if it is not amended. Other than the yearly alignment of applicable amounts to those of Housing Benefit, there are no other proposed changes to the LCTR Scheme for 2021/22 and therefore no consultation has been required.

Section 13 A(2) and Schedule 1A of the Local Government Finance Act 1992, as well as Schedule 1A, paragraph 16 of the Local Government Finance Act 2012 legislate that the scheme must be agreed annually by full Council.

## **EQUALITIES IMPLICATIONS**

Full Equality Impact Assessments were considered and taken into account when the scheme was initially finalised and agreed.

## **SUSTAINABILITY INFORMATION**

Funding for the replacement of the previous Council Tax Benefit Scheme was changed from an unrestricted reimbursement of Council Tax Benefit Subsidy to a restricted, pre-allocated grant figure – which has subsequently been reduced year on year as part of the austerity measures. The Council must be aware that there must be a contingency if, for instance, a major local employer goes into administration.

## **BACKGROUND INFORMATION**

The Welfare Reform Act 2012

[http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga\\_20120005\\_en.pdf](http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_en.pdf)

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Regulations) 2012

## REPORT AUTHOR

If Members would like further information or clarification prior to the meeting please contact Jane Smith, Head of Benefits (Ext.355), Lynne Pugh, Assistant Director Finance (Ext.272), or Stefan Garner, Executive Director Finance (Ext. 242).

Background Papers: -	Local Council Tax Reduction Scheme 2020/21, Corporate Scrutiny Committee 25 <sup>th</sup> August 2020 & Cabinet 10 <sup>th</sup> September 2020.
	Local Council Tax Reduction Scheme 2020/21 Onwards and Consultation Results, Council 10 <sup>th</sup> December 2019
	Local Council Tax Reduction Scheme 2021/22, Corporate Scrutiny Committee, 14 <sup>th</sup> November 2019
	Local Council Tax Reduction Scheme 2021/22, Cabinet 26 <sup>th</sup> September 2019

## APPENDICES

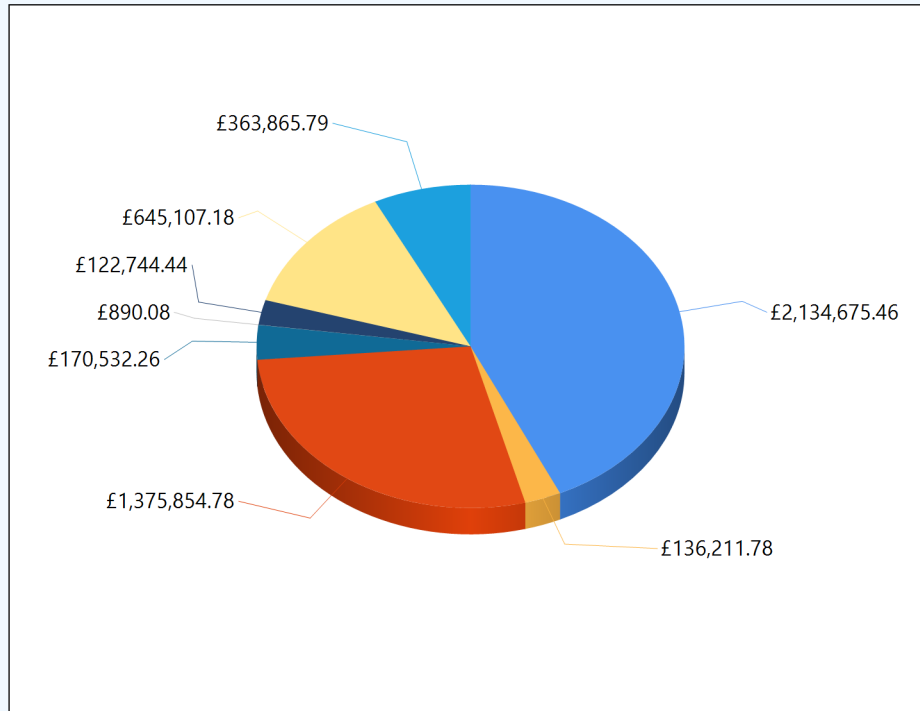
**Appendix 1** Local Council Tax Reduction Working Age Expenditure Summary

**Appendix 2** Local Council Tax Reduction Caseload Summary

**Appendix 3** Equality Impact Assessment Pensioners & Severely Disabled

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CTS Expenditure as of 2020-2021



- Group Description**
- Elderly
  - Working Age-Non-Passported-Disabled Child Premium
  - Working Age-Non-Passported-Other
  - Working Age-Non-Passported-Severe Disability
  - Working Age-Non-Passported-War Pensioners
  - Working Age-Passported-Disabled Child Premium
  - Working Age-Passported-Other
  - Working Age-Passported-Severe Disability

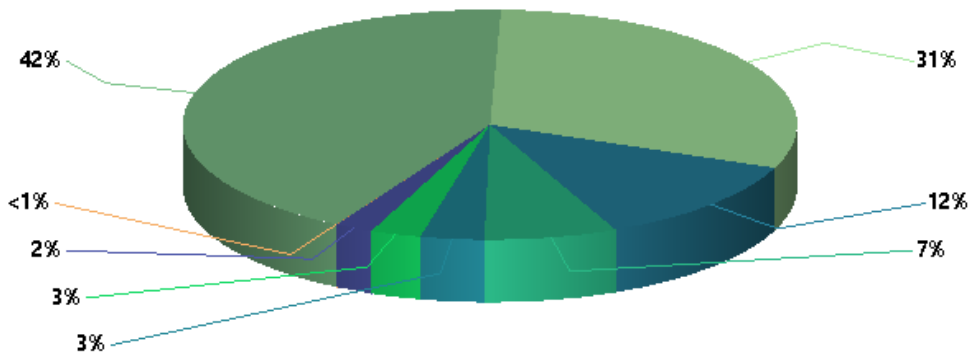
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Colour	Description	Value
■	Elderly	2253
■	Working Age Non-Passported Other	1630
■	Working Age Passported Other	649
■	Working Age Passported Severe Disability	373
■	Working Age Non-Passported Severe Disability	179
■	Working Age Non-Passported Disabled Child Premium	142
■	Working Age Passported Disabled Child Premium	107
■	Working Age Non-Passported War Pensioners	1

**LA Caseload Count**

**CTS Caseload**

**5334**



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# Equality Impact Assessment Template – Protecting Pensioner Cases and Severely Disabled Working Age Claimants

Name of policy/ procedure/ practice to be assessed	Introduction of Localised Council Tax Support (Council Tax Reduction)		Date of Review	Nov 2020	
Is this a new or existing policy/ procedure/ practice?	New	Officer responsible for the Assessment	Jane Smith Head of Benefits	Department	Benefit Services
<p><b>1. Briefly describe the aims, objectives and purpose of the policy/ procedure/ practice?</b></p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 33</p>	<p>The national Council Tax Benefit (CTB) scheme came to an end on 1<sup>st</sup> April 2013 and was replaced by a locally determined system of Council Tax Reduction (CTR). The funding available for the new scheme is limited. The aim of the local scheme is to provide financial assistance to council taxpayers who have low incomes.</p> <p>Persons who are of state pension age (a minimum 60 years or greater) are protected under the scheme in that the calculation of the support they are to receive has been set by Central Government.</p> <p>For working age applicants however the support they receive is to be determined by the local authority.</p> <p>This equality impact assessment looks at the potential for <b>not only</b> protecting pensioners (as required under the legislation) <b>but also</b> providing full support to all working age claimants who are considered <b>severely disabled</b> within the current Council Tax Benefit scheme. The definition of severely disabled is where the claimant or partner is in receipt of a <b>severe disability premium</b>, within either their Council Tax Benefit, Housing Benefit or other means tested benefit;</p> <p>The objective in adopting this policy would be to protect a specific section of the existing claimant group deemed to be highly vulnerable and independently verified as being he most seriously sick and not likely to be able to obtain work.</p>				

	<p>The main issue for the Council is that the funding for support has been reduced significantly (estimated shortfall in funding of £600-£700k). However exempting this one additional group (bearing in mind that pensioners are already protected under the scheme by Central Government) would increase the shortfall in funding to be borne by working age claimants who are not deemed severely disabled.</p> <p>Central Government has not been prescriptive in how an authority should protect vulnerable groups but points to the Council's existing responsibilities including the Child Poverty Act 2010, the Disabled Person Act 1986 and the Housing Act 1996 as well as the public sector equality duty in section 149 of the Equality Act 2010. No definition has been given as to the level of disability which would lead to protection being given, although it is acknowledged that where a person is in the longer term able to undertake work, that they should be incentivised to do so. This would not apply to those who are deemed severely disabled.</p> <p>The current level of assistance provided to pension age claimants and to working age severely disabled claimants is given at the end of this assessment.</p>
<p><b>Are there any associated policy/ procedure/ practice which should be considered whilst carrying out this equality impact assessment?</b></p>	<p>The authority is required to continue maintaining a full Housing Benefit scheme and also to continue to process claims for benefit alongside the introduction of the new scheme for Council Tax Support.</p>
<p><b>3. Who is intended to benefit from this policy/ procedure/ practice and in what way?</b></p>	<p>All persons within the Borough who have a low income may apply for support and assistance with their Council Tax.</p> <p>By making an application, providing evidence of their income and household circumstances, their potential entitlement for support will be calculated in line with Central Government prescribed requirements for the Council Tax Support scheme.</p> <p>In the case of all claimants, it will be essential for the authority to correctly process claims for support base on the new regulatory requirements and to ensure that all existing benefit claimants continue to receive support through the transition and onwards.</p>

<p><b>4. What are the desired outcomes from this policy/ procedure/ practice?</b></p>	<p>The desired outcomes are as follows;</p> <p><b>Pension Age Claimants</b></p> <ul style="list-style-type: none"> <li>• That existing pensioner claimants for Council Tax Benefit (up until 31<sup>st</sup> March 2013) are successfully transferred to the new Council Tax Support scheme;</li> <li>• That all pensioners receive the level of support required by regulations set by Central Government (Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012);</li> <li>• That all new pensioner claimants or existing working age claimants who rise to pension age are able to receive Council Tax support in line with the regulations; and</li> <li>• That all pensioner claimants continue to receive the correct level of support at all times.</li> </ul> <p><b>Severely Disabled Working Age Claimants</b></p> <ul style="list-style-type: none"> <li>• That existing severely disabled working age claimants (as defined earlier in this assessment) for Council Tax Benefit (up until 31<sup>st</sup> March 2013) are successfully transferred to the new Council Tax Support scheme;</li> <li>• That all working age severely disabled claimants receive the level of support currently provided under the existing Council Tax Benefit scheme</li> <li>• That all new working age severely disabled claimants or existing working age claimants who become severely disabled are able to receive Council Tax support in line with current Council Tax Benefit scheme; and</li> <li>• That all working age severely disabled claimants continue to receive the correct level of support at all times.</li> </ul>
<p><b>5. What factors/ forces could contribute/ detract from the outcomes?</b></p>	<p>There are a number of factors which contribute to the outcomes of the new process namely;</p> <ul style="list-style-type: none"> <li>• That the new Council Tax Support scheme broadly replicates the existing Council Tax Benefit scheme for pension age and working age disabled claimants;</li> <li>• That management and staff are experienced in delivering means tested support / benefit schemes; and</li> <li>• That there is a comprehensive project plan, which ensures that delivery of the new scheme, will be on time and in line with legislative requirements.</li> </ul>

	<p>The factors / forces that could detract from these outcomes are as follows;</p> <ul style="list-style-type: none"> <li>• The failure of Central Government to approve the necessary legislation on time;</li> <li>• The failure of the Council’s software suppliers to deliver the necessary changes to existing software systems to enable the correct processing of the new support; and</li> <li>• The failure to deliver these significant changes to the welfare benefit system on time.</li> </ul>
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<p><b>6. Who are the main stakeholders in relation to the policy/ procedure/ practice?</b></p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 36</p>	<p>In respect of the pension age and working age severely disabled claimants for Council Tax Support, the main stakeholders are as follows;</p> <p><b>External Stakeholders;</b></p> <ul style="list-style-type: none"> <li>• Major Precepting authorities – County Council, Police Authority and Fire and Rescue Authority;</li> <li>• Parish Councils (local precepting authorities);</li> <li>• Pension Age claimants;</li> <li>• Working age severely disabled claimants</li> <li>• Potential pension age claimants;</li> <li>• Potential working age severely disabled claimants</li> <li>• Interested Groups such as Citizens Advice Bureau, Age Concern and Help the Aged, Disabled Persons Groups, RNIB, Action on hearing loss etc.</li> <li>• Council Taxpayers generally</li> </ul> <p><b>Internal Stakeholders;</b></p> <ul style="list-style-type: none"> <li>• Staff;</li> </ul>
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<p><b>7. Which individuals/ groups have been/ will be consulted with on this policy/ procedure/ practice?</b></p>	<p>All major precepting authorities have been consulted on the implementation of the new Council Tax Support scheme.</p> <p>The Ministry of Housing, Communities and Local Government have confirmed that consultation on the scheme is not required annually if it is not amended and therefore no consultation has been carried out as the scheme will continue to be aligned to Housing Benefit Applicable Amounts. For future consultations as pension age claimants are protected, the authority will still, as part of the</p>
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	<p>consultation process, look to pension age claimants and pensioners generally to respond to the consultation itself.</p> <p>In respect of working age severely disabled claimants, it will be essential to consult with the group as, being of working age, they will be directly affected by any changes decided by the Council.</p> <p>For working age claimants who are not classified as severely disabled within this policy, it will be essential that extensive consultation is undertaken to obtain their views given that the level of support they receive will be reduced significantly where additional groups are protected.</p> <p>The consultation process will be comprehensive and encourage a full response to the new support scheme itself (notwithstanding the fact that the authority is obliged to implement the scheme determined by Central Government for pension age claimants).</p> <p>Groups representing the disabled or chronically sick will be directly consulted as part of the process.</p>		
<p><b>8. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact on racial groups?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact due to race</p>
<p><b>9. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to gender?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact due to gender</p>

<p><b>10. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to them being transgender or transsexual?</b></p>	<p><b>Y</b></p>	<p><b>N</b> ✓</p>	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact due to a person being transgender or transsexual</p>
<p><b>11. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to disability?</b></p>	<p><b>Y</b> ✓</p>	<p><b>N</b></p>	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants – and - where there is a severe disability, this would maintain the level of support given to working age claimants due to the following;</p> <ul style="list-style-type: none"> <li>• The award of additional premiums for severe disablement;</li> <li>• Disregarding higher levels of income where a claimant is in remunerative work and is severely disabled; and</li> <li>• There is no requirement to have non dependant deductions where a claimant is severely disabled</li> </ul> <p>Likewise any working age claimants who are not considered to be severely disabled would not benefit from the policy and would receive a reduction in support.</p>
<p><b>12. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to sexual orientation?</b></p>	<p><b>Y</b></p>	<p><b>N</b> ✓</p>	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age or working age severely disabled claimants and there would be <b>no</b> differential impact due to sexual orientation</p>
<p><b>13. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to age?</b></p>	<p><b>Y</b> ✓</p>	<p><b>N</b></p>	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants – <b>however there is a differential impact due to age;</b></p> <p>For working age applicants the support they receive is to be determined by the local authority.</p>

			<p>To provide financial assistance for the scheme, Central Government is to provide funding to each billing authority in England, however the level of funding provided is to be less than the amount currently provided to support the existing Council Tax Benefit scheme.</p> <p>If working age severely disabled claimants are to be protected in full, along with pension age claimants (as required by Central Government) there would be an increase in the level of support available to all other working age claimants although this would be a large group over which the reduction could be spread.</p> <p>In the case of the Borough Council, the shortfall to be borne by working age claimants not deemed to be severely disabled would amount to 25% per annum of Council Tax liability.</p>
<p>14. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to religious belief?</p>	Y	N ✓	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact due to religious belief</p>
<p>15. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact on Gypsies/ Travellers?</p>	Y	N ✓	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact to gypsies or travellers</p>
<p>16. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to dependant/caring responsibilities?</p>	Y ✓	N	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants – however where any claimant has dependants or have caring responsibilities, this could potentially increase the level of support given due to the following;</p> <ul style="list-style-type: none"> <li>• The award of additional allowances for dependants within the</li> </ul>

			<p>household;</p> <ul style="list-style-type: none"> <li>• Disregarding higher levels of income where a claimant is in remunerative work and also has to pay for child care; and</li> <li>• Where there is a caring responsibility that results in the claimant of partner receiving carers' allowance, additional premiums can be given – it should be noted however that where a carers' allowance is in payment to another person (not the claimant) this might remove the claimants right to receive a sever disability premium.</li> </ul>
<p><b>17. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to them having an offending past?</b></p>	Y	N ✓	<p>This change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact due having an offending past</p>
<p><b>18. Are there concerns that the policy/ procedure/ practice could have an impact on children or vulnerable adults?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and where there are children or vulnerable adults, the overall level of support <b>will not</b> change and all protections built into the Council Tax Benefit scheme that has been in place since 1993 remain under the new scheme. It is likely that by including the severely disabled, the most vulnerable groups of claimants will be protected</p>
<p><b>19. Does any of the differential impact identified cut across the equality strands (e.g. elder BME groups)?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Support should not affect the overall level of support to pension age claimants or working age severely disabled claimants and there would be <b>no</b> differential impact identified that cut across equality strands</p>



<p><b>20. Could the differential impact identified in 8 - 19 amount to there being the potential for adverse impact in this policy/ procedure/ practice?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>The adoption of this policy would, for pension age groups and working age severely disabled claimants, have no adverse impacts whatsoever. However the Council will continue to encourage pensioners and working age disabled persons to make claims for assistance.</p>
<p><b>21. Can this adverse impact be justified:</b></p> <ul style="list-style-type: none"> <li>• on the grounds of promoting equality of opportunity for one group?</li> <li>• For any other reason?</li> </ul>	<p>Y ✓</p>	<p>N</p>	<p>The inclusion of <b>just</b> working age severely disabled claimants, as a protected group would provide significant additional protection <b>without</b> overburdening the remaining working age claimant base</p>
<p><b>22. As a result of carrying out the equality impact assessment is there a requirement for further consultation?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>There will be no requirement to undertake further consultation</p>
<p><b>23. As a result of this EIA should this policy/ procedure/ practice be recommended for implementation in it's current state?</b></p>	<p>Y ✓</p>	<p>N</p>	<p><b>It is the Council's opinion that this policy to protect both pension age and all working age severely disabled claimants would be equitable and would ensure protection to the most vulnerable within the Borough</b></p>

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# Equality Impact Assessment Action Plan

Complete the action plan demonstrating the changes required in order to meet TBC's commitment to equality and diversity. The action plan must contain monitoring arrangements, the publishing of results and the review period required for this policy.

ACTION/ ACTIVITY	RESPONSIBILITY	TARGET	PROGRESS
Introduction of the Council Tax Support scheme for pensioners as prescribed by the Local Government Finance Act 2012 and defined within the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012	Jane Smith	1 <sup>st</sup> April 2021	Ongoing
<b>Monitoring arrangements:</b>		<b>Data collected quarterly</b>	
Full monitoring of scheme implementation on a monthly basis in line with the accepted project plan	Jane Smith	Monthly and quarterly collection of data to be undertaken by the Benefits Service	Ongoing
<b>Publication:</b>			
The revised Council Tax Reduction scheme is to be published by the Council by April 2020, after consideration at Cabinet and then full Council in December 2020.	Jane Smith		Ongoing
<b>Review Period:</b>		<b>Reviewed 12 monthly unless otherwise stated</b>	
The scheme will be reviewed annually by both Central Government and the Borough Council	Jane Smith		Ongoing

Expand as appropriate

Signed

**(Completing Officer).....**

**Date .....**

**Signed  
(Head of Department) .....**

**Date .....**

**Signed  
Corporate Diversity/ Equality .....**

**Date .....**

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## COUNCIL

TUESDAY 15<sup>TH</sup> DECEMBER 2020

### REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE

#### TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL INVESTMENT STRATEGY MID-YEAR REVIEW REPORT 2020/21

#### EXEMPT INFORMATION

None

#### PURPOSE

To present to Members the Mid-year Review of the Treasury Management Strategy Statement and Annual Investment Strategy.

#### RECOMMENDATIONS

That Council approve:

- 1. the Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2020/21;**
- 2. that the planned investments in property funds be deferred, with a review during Spring 2021 when the situation should be clearer, to inform future investment plans.**

#### EXECUTIVE SUMMARY

This mid-year report has been written in accordance with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management (revised 2017), and covers the following:-

- An economic update for the half of the 2020/21 financial year;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- The Council's Capital expenditure as set out in the Capital Strategy, and Prudential Indicators;
- A review of the Council's investment portfolio for 2020/21;
- A review of the Council's borrowing strategy for 2020/21;
- A review of any debt rescheduling undertaken during 2020/21;
- A review of compliance with Treasury and Prudential Limits for 2020/21.

The main issues for Members to note are:

1. The Council has complied with the professional codes, statutes and guidance.
2. There are no issues to report regarding non-compliance with the approved prudential indicators.
3. The investment portfolio yield for the first six months of the year is 0.77% (1.02% for the same period in 2019/20) compared to the 3 Month LIBID benchmark rate of 0.11% (0.66% for the same period in 2019/20).

At the meeting on 15<sup>th</sup> July 2020, Members of the Corporate Scrutiny Committee considered the Capital Outturn report for 2019/20 concluding before any further investments in property funds under existing delegations are made, that a review be carried out.

As the Committee nominated by Council for the scrutiny of Treasury Management functions, it was recommended to and approved by Cabinet on 30<sup>th</sup> July that the review be scrutinised by the Audit & Governance Committee to inform the Treasury Management Strategy Statement and Annual Investment Strategy Mid-Year Review Report due to be presented to Council in December 2020. This was considered at the Audit & Governance Committee on 29<sup>th</sup> October 2020 where it was resolved that it be recommended to Cabinet that the planned investments in property funds be deferred, with a review during Spring 2021 when the situation should be clearer, to inform future investment plans.

The aim of this report is to inform Members of the treasury and investment management issues to enable all Members to have ownership and understanding when making decisions on Treasury Management matters. In order to facilitate this, training on Treasury Management issues was most recently delivered for Members in November 2019 and will be provided as and when required.

## **RESOURCE IMPLICATIONS**

All financial resource implications are detailed in the body of this report which links to the Council's Medium Term Financial Strategy.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Risk is inherent in Treasury Management and as such a risk based approach has been adopted throughout the report with regard to Treasury Management processes.

## **SUSTAINABILITY IMPLICATIONS**

None

## BACKGROUND INFORMATION

In December 2017, the Chartered Institute of Public Finance and Accountancy (CIPFA) issued revised Prudential and Treasury Management Codes. As from 2019/20, all local authorities have been required to prepare a Capital Strategy which is to provide the following:-

- A high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- An overview of how the associated risk is managed
- The implications for future financial sustainability

A report setting out our updated Capital Strategy will be included with the Budget and Medium Term Financial Strategy report presented to Cabinet and Council in February 2021.

The CIPFA Code of Practice on Treasury Management (revised 2017) suggests that Members should be informed of Treasury Management activities at least twice a year, but preferably quarterly. This is the second monitoring report for 2020/21 presented to Members this year and therefore ensures the Council is embracing best practice. Cabinet also receives regular monitoring reports as part of the quarterly healthcheck on Treasury Management activities and risks.

The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the Treasury Management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering optimising investment return.

The second main function of the Treasury Management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses, and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.

Accordingly, Treasury Management is defined as:

*“The management of the local authority’s borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*

## Introduction

This report has been written in accordance with the requirements of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised 2017), which was adopted by this Council on 27<sup>th</sup> February 2018.

The primary requirements of the Code are as follows:

1. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's Treasury Management activities.
2. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
3. Receipt by the full Council of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Policy - for the year ahead, a **Mid-year Review Report** and an Annual Report (stewardship report) covering activities during the previous year.
4. Delegation by the Council of responsibilities for implementing and monitoring Treasury Management policies and practices and for the execution and administration of Treasury Management decisions.
5. Delegation by the Council of the role of scrutiny of Treasury Management strategy and policies to a specific named body. For this Council the delegated body is the Audit and Governance Committee.

### 1. Economic Update and Interest Rates

**1.1** As expected, the Bank of England's Monetary Policy Committee kept Bank Rate unchanged on 6<sup>th</sup> August. It also kept unchanged the level of quantitative easing at £745bn. Its forecasts were optimistic in terms of three areas:

- The fall in **GDP** in the first half of 2020 was revised from 28% to 23% (subsequently revised to -21.8%). This is still one of the largest falls in output of any developed nation. However, it is only to be expected as the UK economy is heavily skewed towards consumer-facing services – an area which was particularly vulnerable to being damaged by lockdown.
- The peak in the **unemployment rate** was revised down from 9% in Q2 to 7½% by Q4 2020.
- It forecast that there would be excess demand in the economy by Q3 2022 causing **CPI inflation** to rise above the 2% target in Q3 2022, (based on market interest rate expectations for a further loosening in policy). Nevertheless, even if the Bank were to leave policy unchanged, inflation was still projected to be above 2% in 2023.



It also squashed any idea of using **negative interest rates**, at least in the next six months or so. It suggested that while negative rates can work in some circumstances, it would be “less effective as a tool to stimulate the economy” at this time when banks are worried about future loan losses. It also has “other instruments available”, including QE and the use of forward guidance.

The MPC expected the £300bn of **quantitative easing** purchases announced between its March and June meetings to continue until the “turn of the year”. This implies that the pace of purchases will slow further to about £4bn a week, down from £14bn a week at the height of the crisis and £7bn more recently.

In conclusion, this would indicate that the Bank could now just sit on its hands as the economy was recovering better than expected. However, the MPC acknowledged that the “medium-term projections were a less informative guide than usual” and the minutes had multiple references to **downside risks**, which were judged to persist both in the short and medium term. One has only to look at the way in which second waves of the virus are now impacting many countries including Britain, to see the dangers. In addition, Brexit uncertainties ahead of the year-end deadline are likely to be a drag on recovery.

Overall, **the pace of recovery** is not expected to be in the form of a rapid V shape, but a more elongated and prolonged one after a sharp recovery in June through to August which left the economy 11.7% smaller than in February. The last three months of 2020 are now likely to show no growth as consumers will probably remain cautious in spending and uncertainty over the outcome of the UK/EU trade negotiations concluding at the end of the year will also be a headwind. If the Bank felt it did need to provide further support to recovery, then it is likely that the tool of choice would be more QE.

There will be some **painful longer term adjustments** as e.g. office space and travel by planes, trains and buses may not recover to their previous level of use for several years, or possibly ever. There is also likely to be a reversal of globalisation as this crisis has shown up how vulnerable long-distance supply chains are. On the other hand, digital services is one area that has already seen huge growth.

One key addition to **the Bank’s forward guidance** was a new phrase in the policy statement, namely that “it does not intend to tighten monetary policy until there is clear evidence that significant progress is being made in eliminating spare capacity and achieving the 2% target sustainably”. That seems designed to say, in effect, that even if inflation rises to 2% in a couple of years’ time, do not expect any action from the MPC to raise Bank Rate – until they can clearly see that level of inflation is going to be persistently above target if it takes no action to raise Bank Rate

The **Financial Policy Committee** (FPC) report on 6<sup>th</sup> August revised down their expected credit losses for the banking sector to “somewhat less than £80bn”. It stated that in its assessment “banks have buffers of capital more than sufficient to absorb the losses that are likely to arise under the MPC’s central projection”. The FPC stated that for real stress in the sector, the economic output would need to be twice as bad as the MPC’s projection, with unemployment rising to above 15%.

**US.** The incoming sets of data during the first week of August were almost universally stronger than expected.

However, growth will be dampened by continuing outbreaks of the virus in some states leading to fresh localised restrictions. At its end of August meeting, the Fed tweaked **its inflation target** from 2% to maintaining an average of 2% over an unspecified time period i.e. following periods when inflation has been running persistently below 2%, appropriate monetary policy will likely aim to achieve inflation moderately above 2% for some time. This change is aimed to provide more stimulus for economic growth and higher levels of employment and to avoid the danger of getting caught in a deflationary “trap” like Japan. It is to be noted that inflation has actually been under-shooting the 2% target significantly for most of the last decade so financial markets took note that higher levels of inflation are likely to be in the pipeline; long term bond yields duly rose after the meeting. The Fed also called on Congress to end its political disagreement over providing more support for the unemployed as there is a limit to what monetary policy can do compared to more directed central government fiscal policy. The FOMC’s updated economic and rate projections in mid-September showed that officials expect to leave the fed funds rate at near-zero until at least end-2023 and probably for another year or two beyond that. There is now some expectation that where the Fed has led in changing its inflation target, other major central banks will follow. The increase in tension over the last year between the US and China is likely to lead to a lack of momentum in progressing the initial positive moves to agree a phase one trade deal.

**EU.** The economy was recovering well towards the end of Q2 after a sharp drop in GDP, (e.g. France 18.9%, Italy 17.6%). However, the second wave of the virus could cause a significant slowdown in the pace of recovery, especially in countries more dependent on tourism. The fiscal support package, eventually agreed by the EU after prolonged disagreement between various countries, is unlikely to provide significant support and quickly enough to make an appreciable difference in weaker countries. The ECB has been struggling to get inflation up to its 2% target and it is therefore expected that it will have to provide more monetary policy support through more quantitative easing purchases of bonds in the absence of sufficient fiscal support.

**China.** After a concerted effort to get on top of the virus outbreak in Q1, economic recovery was strong in Q2 and has enabled it to recover all of the contraction in Q1. However, this was achieved by major central government funding of yet more infrastructure spending. After years of growth having been focused on this same area, any further spending in this area is likely to lead to increasingly weaker economic returns. This could, therefore, lead to a further misallocation of resources which will weigh on growth in future years.

**Japan.** There are some concerns that a second wave of the virus is gaining momentum and could dampen economic recovery from its contraction of 8.5% in GDP. It has been struggling to get out of a deflation trap for many years and to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy. The resignation of Prime Minister Abe is not expected to result in any significant change in economic policy.

**World growth.** Latin America and India are currently hotspots for virus infections. World growth will be in recession this year. Inflation is unlikely to be a problem for some years due to the creation of excess production capacity and depressed demand caused by the coronavirus crisis.

## 1.2 Interest rate forecasts

The Council's treasury advisor, Link Group, provided the following forecasts on 11<sup>th</sup> August 2020 (PWLB rates are certainty rates, gilt yields plus 180bps):

Link Group Interest Rate View 11.8.20										
	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23
Bank Rate View	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
3 month average earnings	0.05	0.05	0.05	0.05	0.05	-	-	-	-	-
6 month average earnings	0.10	0.10	0.10	0.10	0.10	-	-	-	-	-
12 month average earnings	0.15	0.15	0.15	0.15	0.15	-	-	-	-	-
5yr PWLB Rate	1.90	2.00	2.00	2.00	2.00	2.00	2.10	2.10	2.10	2.10
10yr PWLB Rate	2.10	2.10	2.10	2.10	2.20	2.20	2.20	2.30	2.30	2.30
25yr PWLB Rate	2.50	2.50	2.50	2.60	2.60	2.60	2.70	2.70	2.70	2.70
50yr PWLB Rate	2.30	2.30	2.30	2.40	2.40	2.40	2.50	2.50	2.50	2.50

The coronavirus outbreak has done huge economic damage to the UK and economies around the world. After the Bank of England took emergency action in March to cut Bank Rate to first 0.25%, and then to 0.10%, it left Bank Rate unchanged at its meeting on 6<sup>th</sup> August (and the subsequent September meeting), although some forecasters had suggested that a cut into negative territory could happen. However, the Governor of the Bank of England has made it clear that he currently thinks that such a move would do more damage than good and that more quantitative easing is the favoured tool if further action becomes necessary. As shown in the forecast table above, no increase in Bank Rate is expected within the forecast horizon ending on 31<sup>st</sup> March 2023 as economic recovery is expected to be only gradual and, therefore, prolonged.

**GILT YIELDS / PWLB RATES.** There was much speculation during the second half of 2019 that bond markets were in a bubble which was driving bond prices up and yields down to historically very low levels. The context for that was heightened expectations that the US could have been heading for a recession in 2020. In addition, there were growing expectations of a downturn in world economic growth, especially due to fears around the impact of the trade war between the US and China, together with inflation generally at low levels in most countries and expected to remain subdued. Combined, these conditions were conducive to very low bond yields. While inflation targeting by the major central banks has been successful over the last 30 years in lowering inflation expectations, the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers. This means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. The consequence of this has been the gradual lowering of the overall level of interest rates and bond yields in financial markets over the last 30 years. Over the year prior to the coronavirus crisis, this has seen many bond yields up to 10 years turn negative in the Eurozone. In addition, there has, at times, been an inversion of bond yields in the US whereby 10 year yields have fallen below shorter term yields. In the past, this has been a precursor of a recession. The other side of this coin is that bond prices are elevated as investors would be expected to be moving out of riskier assets i.e. shares, in anticipation of a downturn in corporate earnings and so selling out of equities.

Gilt yields had therefore already been on a generally falling trend up until the coronavirus crisis hit western economies during March. After gilt yields spiked up during the initial phases of the health crisis in March, we have seen these yields fall sharply to

unprecedented lows as major western central banks took rapid action to deal with excessive stress in financial markets, and started massive quantitative easing purchases of government bonds: this also acted to put downward pressure on government bond yields at a time when there has been a huge and quick expansion of government expenditure financed by issuing government bonds. Such unprecedented levels of issuance in “normal” times would have caused bond yields to rise sharply. At the close of the day on 30<sup>th</sup> September, all gilt yields from 1 to 6 years were in negative territory, while even 25-year yields were at only 0.76% and 50 year at 0.60%.

From the local authority borrowing perspective, HM Treasury imposed **two changes of margins over gilt yields for PWLB rates** in 2019-20 without any prior warning. The first took place on 9<sup>th</sup> October 2019, adding an additional 1% margin over gilts to all PWLB period rates. That increase was then at least partially reversed for some forms of borrowing on 11<sup>th</sup> March 2020, but not for mainstream General Fund capital schemes, at the same time as the Government announced in the Budget a programme of increased infrastructure expenditure. It also announced that there would be a consultation with local authorities on possibly further amending these margins; this was to end on 4<sup>th</sup> June, but that date was subsequently put back to 31<sup>st</sup> July. It is clear HM Treasury will no longer allow local authorities to borrow money from the PWLB to purchase commercial property if the aim is solely to generate an income stream (assets for yield). Following the changes on 11<sup>th</sup> March 2020 in margins over gilt yields, the current situation is as follows: -

- **PWLB Standard Rate** is gilt plus 200 basis points (G+200bps)
- **PWLB Certainty Rate** is gilt plus 180 basis points (G+180bps)
- **PWLB HRA Standard Rate** is gilt plus 100 basis points (G+100bps)
- **PWLB HRA Certainty Rate** is gilt plus 80bps (G+80bps)
- **Local Infrastructure Rate** is gilt plus 60bps (G+60bps)

It is possible that the non-HRA Certainty Rate will be subject to revision downwards after the conclusion of the PWLB consultation; however, the timing of such a change is currently an unknown, although it would be likely to be within the current financial year.

As the interest forecast table for PWLB certainty rates, (gilts plus 180bps), above shows, there is likely to be little upward movement in PWLB rates over the next two years as it will take economies, including the UK, a prolonged period to recover all the momentum they have lost in the sharp recession caused during the coronavirus shut down period. Inflation is also likely to be very low during this period and could even turn negative in some major western economies during 2020/21.

### **The balance of risks to the UK**

The overall balance of risks to economic growth in the UK is probably relatively even, but is subject to major uncertainty due to the virus.

There is relatively little UK domestic risk of increases or decreases in Bank Rate and significant changes in shorter term PWLB rates. The Bank of England has effectively ruled out the use of negative interest rates in the near term and increases in Bank Rate

are likely to be some years away given the underlying economic expectations.

However, it is always possible that safe haven flows, due to unexpected domestic developments and those in other major economies, could impact gilt yields, (and so PWLB rates), in the UK.

**Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:**

- **UK** - second nationwide wave of virus infections resulting in further lockdown
- **UK / EU trade negotiations** – if it were to cause significant economic disruption and a fresh major downturn in the rate of growth.
- **UK - Bank of England** takes action too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- A resurgence of the **Eurozone sovereign debt crisis**. The ECB has taken monetary policy action to support the bonds of EU states, with the positive impact most likely for “weaker” countries. In addition, the EU recently agreed a €750bn fiscal support package. These actions will help shield weaker economic regions for the next year or so. However, in the case of Italy, the cost of the virus crisis has added to its already huge debt mountain and its slow economic growth will leave it vulnerable to markets returning to taking the view that its level of debt is unsupportable. There remains a sharp divide between northern EU countries favouring low debt to GDP and annual balanced budgets and southern countries who want to see jointly issued Eurobonds to finance economic recovery. This divide could undermine the unity of the EU in time to come.
- Weak capitalisation of some **European banks**, which could be undermined further depending on extent of credit losses resultant of the pandemic.
- **German minority government & general election in 2021**. In the German general election of September 2017, Angela Merkel’s CDU party was left in a vulnerable minority position dependent on the fractious support of the SPD party, as a result of the rise in popularity of the anti-immigration AfD party. The CDU has done badly in subsequent state elections but the SPD has done particularly badly. Angela Merkel has stepped down from being the CDU party leader but she intends to remain as Chancellor until the general election in 2021. This then leaves a major question mark over who will be the major guiding hand and driver of EU unity when she steps down.
- **Other minority EU governments**. Austria, Sweden, Spain, Portugal, Netherlands, Ireland and Belgium also have vulnerable minority governments dependent on coalitions which could prove fragile.
- **Austria, the Czech Republic, Poland and Hungary** now form a strongly anti-immigration bloc within the EU. There has also been a rise in anti-immigration sentiment in Germany and France.
- **Geopolitical risks**, for example in China, Iran or North Korea, but also in Europe and other Middle Eastern countries, which could lead to increasing safe haven flows.

- **US – the Presidential election in 2020:** this could have repercussions for the US economy and SINO-US trade relations.

### Upside risks to current forecasts for UK gilt yields and PWLB rates

- **UK** - stronger than currently expected recovery in UK economy.
- **Post-Brexit** – if an agreement was reached that removed the majority of threats of economic disruption between the EU and the UK.
- The **Bank of England is too slow** in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.

## 2. Treasury Management Strategy Statement and Annual Investment Strategy Update

The Treasury Management Strategy Statement (TMSS) for 2020/21 was approved by Council on 25th February 2020.

There are no policy changes to the TMSS; the details in this report update the position in the light of the updated economic position and budgetary changes already approved.

## 3. The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

### 3.1 Prudential Indicator for Capital Expenditure

This table below shows the revised estimates for capital expenditure and the changes since the capital programme was agreed at the Budget.

Capital Expenditure	2020/21 Original Programme	Budget B'fwd from 2019/20	Virements in Year	Total 2020/21 Budget	Actual Spend @ Period 6	Predicted Outturn	2020/21 Revised Estimate*
	£m	£m	£m	£m	£m	£m	£m
General Fund	1.579	15.077	0.472	17.127	1.644	3.600	16.844
HRA	10.246	6.004	6.000	22.250	10.455	21.351	21.396
<b>Total</b>	<b>11.825</b>	<b>21.080</b>	<b>6.472</b>	<b>39.377</b>	<b>12.099</b>	<b>24.951</b>	<b>38.241</b>

\* Includes potential expenditure slippage into 2020/21

### 3.2 Changes to the Financing of the Capital Programme

The following table draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. Any borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision).

This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

<b>Capital Expenditure</b>	<b>2020/21 Capital Programme £m</b>	<b>2020/21 Predicted Outturn £m</b>	<b>2020/21 Budget * £m</b>
Unsupported	0.844	4.754	4.985
Supported	10.981	20.197	34.392
<b>Total spend</b>	<b>11.825</b>	<b>24.951</b>	<b>39.377</b>
Financed by:			
Grants - Disabled Facilities	0.400	0.400	0.400
Section 106's	0.090	0.816	0.972
GF Receipts	-	0.080	12.930
GF Reserve	-	0.175	0.298
Sale of Council House Receipts	0.191	0.263	0.392
HRA Receipts	0.741	0.786	0.940
HLF/Donation - Castle Mercian Trail	-	0.226	0.226
Community Infrastructure Levy (CIL)	0.030	-	0.030
Other Grants/Contributions	0.024	0.601	0.609
MRR	2.895	3.528	4.282
HRA 1-4-1 Replacements Receipts	0.600	3.072	3.072
HRA Reserve	5.666	9.061	9.053
HRA Regeneration Fund	0.344	1.066	1.066
HRA Affordable Housing Reserve	-	0.124	0.124
<b>Total Financing</b>	<b>10.981</b>	<b>20.197</b>	<b>34.392</b>
<b>Borrowing need</b>	<b>0.844</b>	<b>4.754</b>	<b>4.985</b>

\* includes potential expenditure slippage into 2020/21

### 3.3 Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and the Operational Boundary

The following table shows the Capital Financing Requirement (CFR), which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period, which is termed the Operational Boundary.

#### Prudential Indicator – Capital Financing Requirement

We are on target to achieve the original forecast Capital Financing Requirement.

#### Prudential Indicator – the Operational Boundary for External Debt

	2019/20 Outturn £m	2020/21 Capital Programme £m	2020/21 Projected Outturn £m	2020/21 Budget £m
CFR – Non Housing	3.523	2.806	4.453	4.627
CFR – Housing	68.532	75.255	72.246	72.246
Total CFR	72.055	78.061	76.698	76.873
<b>Net movement in CFR</b>	<b>3.188</b>	<b>3.010</b>	<b>4.643</b>	<b>4.818</b>
Operational Boundary				
Expected Borrowing	63.060	63.060	63.060	63.060
Other long term liabilities	-	-		-
<b>Total Debt 31<sup>st</sup> March</b>	<b>63.060</b>	<b>63.060</b>	<b>63.060</b>	<b>63.060</b>

### 3.4 Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2020/21 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

	2019/20 Outturn £m	2020/21 Original Estimate £m	2020/21 Projected Outturn £m	2020/21 Budget £m
Gross borrowing	63.060	63.060	63.060	63.060
Less investments	58.981	27.197	43.905	43.673
Net borrowing	4.079	35.863	19.156	19.387



CFR (year end position)	72.055	78.061	76.698	76.873
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A further prudential indicator controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

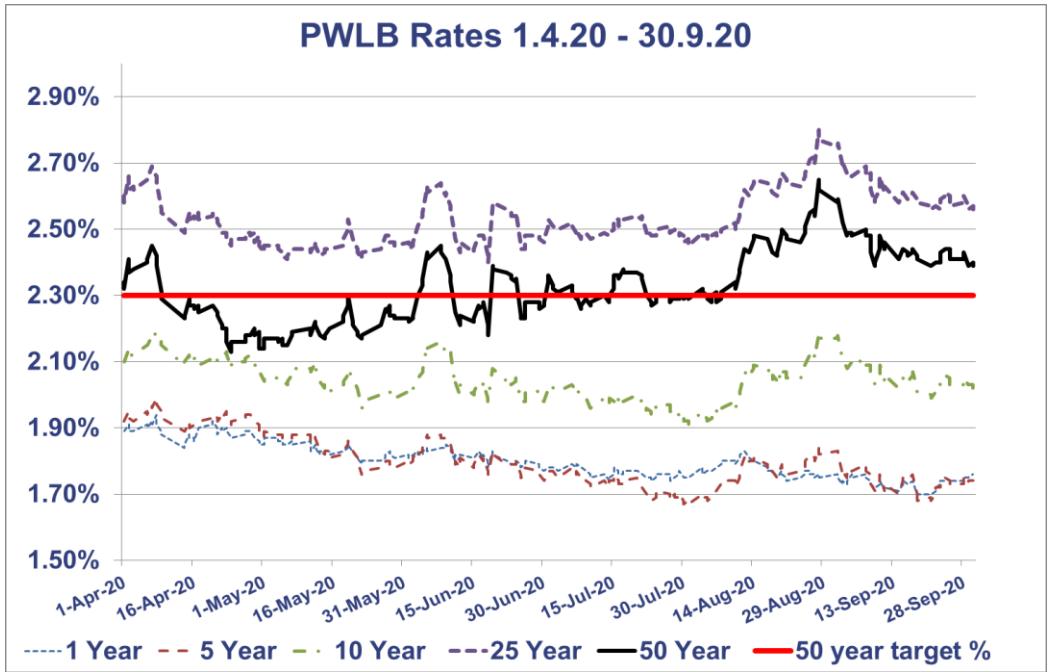
<b>Authorised Limit for External Debt</b>	<b>2020/21 Original Indicator</b>	<b>Current Position</b>	<b>2020/21 Revised Indicator</b>
Borrowing	85.213	85.213	85.213
Total	85.213	85.213	85.213

#### **4. Borrowing**

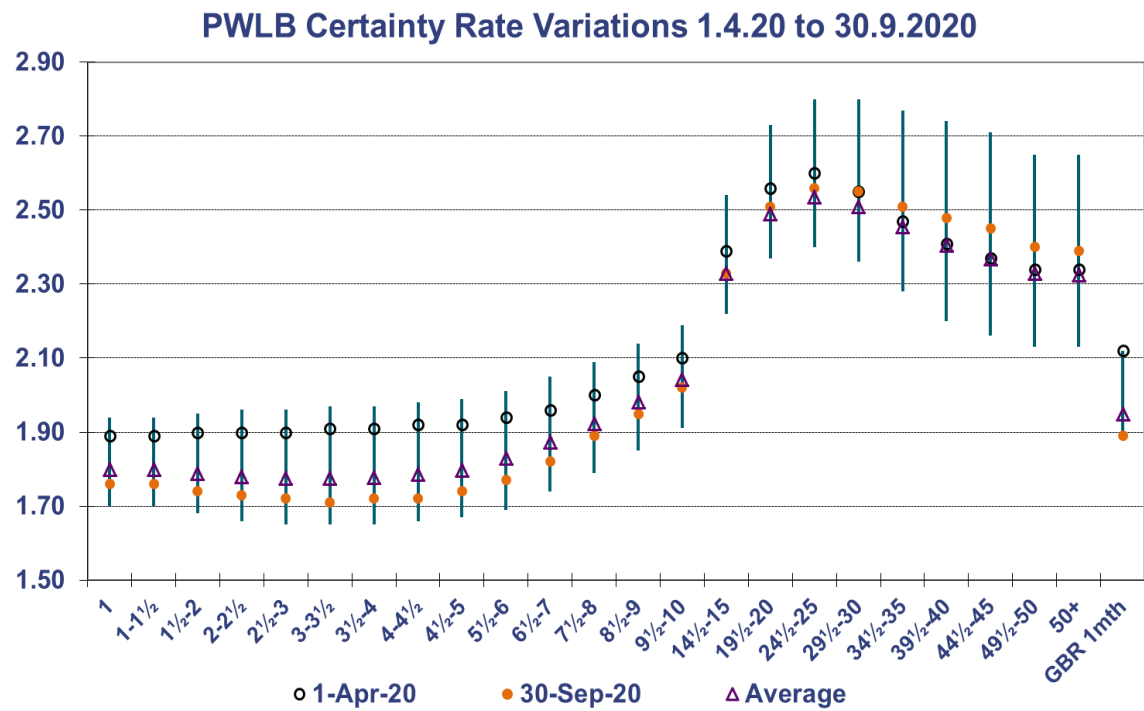
The Council's estimated revised capital financing requirement (CFR) for 2020/21 is £76.698m. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. Table 3.4 shows the Council has borrowings of £63.060m and plans to utilise £13.638m of cash flow funds in lieu of borrowing. This is a prudent and cost effective approach in the current economic climate but will require ongoing monitoring in the event that upside risk to gilt yields prevails.

It is not anticipated that any additional borrowing will be undertaken during 2020/21.

**PWLB maturity certainty rates (gilts plus 180bps) year to date to 30<sup>th</sup> September 2020**



	1 Year	5 Year	10 Year	25 Year	50 Year
Low	1.70%	1.67%	1.91%	2.40%	2.13%
Date	18/09/2020	30/07/2020	31/07/2020	18/06/2020	24/04/2020
High	1.94%	1.99%	2.19%	2.80%	2.65%
Date	08/04/2020	08/04/2020	08/04/2020	28/08/2020	28/08/2020
Average	1.80%	1.80%	2.04%	2.54%	2.33%



PWLB rates varied within a relatively narrow range between April and July but the longer end of the curve rose during August. This increase came in two periods; the first in the second week of the month was on the back of hopes for fresh US stimulus. This saw investors switch monies out of government bonds and into equities. The second shift

higher at the longer end of the curve came in the latter stages of the month as investors reacted to the announcement of the tweak to the Fed's inflation target. Despite moves further out in the yield curve, the short end remained anchored on the basis of no fundamental change to the interest rate outlook.

The 50-year PWLB target rate for new long-term borrowing was unchanged at 2.30%.

## **5. Debt Rescheduling**

Debt rescheduling opportunities have been very limited in the current economic climate and following the various increases in the margins added to gilt yields which have impacted PWLB new borrowing rates since October 2010. No debt rescheduling has therefore been undertaken to date in the current financial year.

## **6. Compliance with Treasury and Prudential Limits**

It is a statutory duty for the Council to determine and keep under review the affordable borrowing limits. During the half year ended 30<sup>th</sup> September 2020, the Council has operated within the treasury and prudential indicators set out in the Council's Treasury Management Strategy Statement for 2020. The Executive Director Finance reports that no difficulties are envisaged for the current or future years in complying with these indicators.

All treasury management operations have also been conducted in full compliance with the Council's Treasury Management Practices.

## **7. Annual Investment Strategy**

The Treasury Management Strategy Statement (TMSS) for 2020/21, which includes the Annual Investment Strategy, was approved by the Council on 25<sup>th</sup> February 2020. In accordance with the CIPFA Treasury Management Code of Practice, it sets out the Council's investment priorities as being:

- Security of capital
- Liquidity
- Yield

The Council will aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity and with the Council's risk appetite. In the current economic climate it is considered appropriate to keep investments short term to cover cash flow needs, but also to seek out value available in periods up to 12 months with high credit rated financial institutions, using the Link suggested creditworthiness approach, including a minimum sovereign credit rating and Credit Default Swap (CDS) overlay information.

As shown by the interest rate forecasts in section 1.2, it is now impossible to earn the level of interest rates commonly seen in previous decades as all investment rates are barely above zero now that Bank Rate is at 0.10%, while some entities, including more recently the Debt Management Account Deposit Facility (DMADF), are offering negative rates of return in some shorter time periods. Given this risk environment and the fact that increases in Bank Rate are unlikely to occur before the end of the current forecast horizon of 31<sup>st</sup> March 2023, investment returns are expected to remain low.

### **Negative investment rates**

While the Bank of England has said that it is unlikely to introduce a negative Bank Rate, at least in the next 6 -12 months, some deposit accounts are already offering negative rates for shorter periods. As part of the response to the pandemic and lockdown, the Bank and the Government have provided financial markets and businesses with plentiful access to credit, either directly or through commercial banks. In addition, the Government has provided large sums of grants to local authorities to help deal with the Covid crisis; this has caused some local authorities to have sudden large increases in investment balances searching for an investment home, some of which was only very short term until those sums were able to be passed on.

As for money market funds (MMFs), yields have continued to drift lower. Some managers have suggested that they might resort to trimming fee levels to ensure that net yields for investors remain in positive territory where possible and practical. Investor cash flow uncertainty, and the need to maintain liquidity in these unprecedented times, has meant there is a glut of money swilling around at the very short end of the market. This has seen a number of market operators, now including the DMADF, offer nil or negative rates for very short term maturities. This is not universal, and MMFs are still offering a marginally positive return, as are a number of financial institutions.

Inter-local authority lending and borrowing rates have also declined due to the surge in the levels of cash seeking a short-term home at a time when many local authorities are probably having difficulties over accurately forecasting when disbursements of funds received will occur or when further large receipts will be received from the Government.

### **Creditworthiness.**

Although the credit rating agencies changed their outlook on many UK banks from stable to negative outlook during the quarter ended 30<sup>th</sup> June 2020 due to upcoming risks to banks' earnings and asset quality during the economic downturn caused by the pandemic, the majority of ratings were affirmed due to the continuing strong credit profiles of UK banks. However, during Q1 and Q2 2020, banks made provisions for *expected* credit losses and the rating changes reflected these provisions. As we move into the next quarters ahead, more information will emerge on *actual* levels of credit losses. (Quarterly performance is normally announced in the second half of the month following the end of the quarter.) This has the potential to cause rating agencies to revisit their initial rating adjustments earlier in the current year. These adjustments could be negative or positive, although it should also be borne in mind that UK banks went into this pandemic with strong balance sheets. Indeed, the Financial Policy Committee (FPC) report on 6<sup>th</sup> August revised down their expected credit losses for the banking sector to "somewhat less than £80bn". They stated that in their assessment, "banks have buffers of capital more than sufficient to absorb the losses that are likely to arise under the MPC's central projection". The FPC stated that for real stress in the sector, the economic output would need to be twice as bad as the MPC's projection, with unemployment rising to above 15%.

All three rating agencies have reviewed banks around the world with similar results in many countries of most banks being placed on negative watch, but with a small number of actual downgrades.

Link have conducted some stress testing on the Link credit methodology based list of counterparties supplied to clients, to test for the results of a 1 notch downgrade to all Long Term Ratings from all agencies. Under such a scenario, only Commerzbank, Norddeutsche Landesbank, NatWest Markets Plc (non-ring-fenced entity), Leeds, Skipton and Yorkshire Building Societies moved from Green to No Colour. While there are a further 17 drops in other entities' suggested durations, in these instances, these entities still remain potentially available for use. (Note that this scenario excludes any additional impact from relative movement in CDS pricing.)

### **Investment Counterparty criteria**

The current investment counterparty criteria selection approved in the TMSS is meeting the requirement of the treasury management function.

### **CDS prices**

Although CDS prices, (these are market indicators of credit risk), for UK banks spiked upwards at the end of March/early April due to the liquidity crisis throughout financial markets, CDS prices have returned to more average levels since then, although they are still elevated compared to end-February. Pricing is likely to remain volatile as uncertainty continues. However, sentiment can easily shift, so it remains important to undertake continual monitoring of all aspects of risk and return in the current circumstances.

### **Investment balances**

The Council held £59.572m of investments as at 30<sup>th</sup> September 2020, excluding investments in property funds (£55.061m at 31<sup>st</sup> March 2020) and the investment portfolio yield for the first six months of the year is 0.77% against a benchmark of the 3 months LIBID of 0.11%. A full list of investments held as at 30<sup>th</sup> September 2020 is detailed in **APPENDIX 1**.

The Executive Director Finance confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of 2020/21.

The Council's budgeted investment return for 2020/21 is £332k.

### **Investment Counterparty Criteria**

The current investment counterparty criteria selection approved in the TMSS and as approved by Council on 25th February 2020 meets the requirements of the Treasury Management function.

### **8.Changes in risk appetite**

The 2018 CIPFA Codes and guidance notes have placed enhanced importance on risk management. Where an authority changes its risk appetite e.g. for moving surplus cash into or out of certain types of investment funds or other types of investment instruments, this change in risk appetite and policy should be brought to members' attention in treasury management update reports. There are no such changes to report to Members at this stage.

## 9. Property Funds

Following a Property Fund Manager selection exercise during 2017/18, supported by Link Asset Services, Council on 27<sup>th</sup> February 2018 endorsed the approach taken and approved the investment in a short list of Property Funds.

To date, the Council has invested £1.85m with Schrodgers UK Real Estate Fund and £2m with Threadneedle Property Unit Trust, total investment £3.85m – however, capital values have fallen by £291k since, mainly since 31<sup>st</sup> March 2020 (£163k).

It should also be noted that investments in property are subject to fluctuations in value over the economic cycle and should also yield capital growth in the longer term as the economy grows.

Table 1: Fund Valuations	Investment	Valuation 31/03/2019	Valuation 31/03/2020	Valuation 30/09/2020
Schrodgers UK Real Estate Fund	1,848,933	1,897,716	1,884,412	1,796,118
Valuation Increase / (reduction)		48,783	35,479	(52,815)
Threadneedle Property Unit Trust	2,000,249	1,921,884	1,836,032	1,761,749
Valuation Increase / (reduction)		(78,365)	(164,216)	(238,500)
Total	3,849,182	3,819,601	3,720,444	3,557,867
Gain / (loss)		(29,581)	(128,738)	(291,315)

However, this needs to be balanced against the dividends received (which support the revenue budget). The Council received £147k in dividends from its property fund investments in 2019/20 (£108k in 2018/19), £255k in total compared to the valuation reduction of £129k over the same period.

Table 2: Investment Returns	Dividend Returns 31/03/2019	Dividend Returns 31/03/2020	Dividend Returns 30/09/2020	Estimated Return p.a.	
				%	
Schrodgers UK Real Estate Fund	48,118	56,638	27,300	3.0%	Half year only to 30/9/20 for 2020/21
Gain / (loss)	48,118	104,756	132,056		
Threadneedle Property Unit Trust	60,056	90,274	38,684	4.9%	
Gain / (loss)	60,056	150,329	189,014		
Total	108,174	146,911	65,984		
Gain / (loss)	108,174	255,085	321,069		
Annual Revenue % Return	2.8%	3.8%	1.7%	3.9%	
Annual Overall % Return	2.0%	1.2%	(2.5)%		
Cumulative Gain / (loss)	78,593	126,348	29,754		

Internal Treasury Management Return Achieved %	0.9%	1.0%	0.8%	0.7%	
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The funds achieved an estimated return of 2.8% in 2018/19 and 3.8% during 2019/20 compared to internal investments with banks and other Councils of less than 1%.

The MTFs includes budgeted income of £300k for 2020/21 (£480k pa from 2021/22) arising from investment of the full £12m budgeted, however, due to uncertainty around arrangements for Brexit and the associated impact on the economy, and then the further uncertainty and questions over the potential outlook for future property fund returns as a result of the coronavirus, any further investment in property funds had been delayed until there is more clarity.

The secondary market investment opportunities available at present (as at 20<sup>th</sup> November) are set out below – and show that there is a potential discount of up to 5% on purchase costs, which needs to be considered against the risk of capital devaluations in the coming months.

### UK Balanced Funds

FUND	BID (BUYERS)	OFFER (SELLERS)	Notes
BlackRock UK Property Fund	-4%	-3%	
CBRE UK Property PAIF	-5%	NAV	
Hermes Property Unit Trust	-3%	-1.5%	
Lothbury Property Trust	-	-3%	
Schroder UK Real Estate Fund	-5%	-3%	Trading NAV -4%
Threadneedle Property Unit Trust	-5%	-3%	

### Conclusions

While risk is inherent in investment decisions, property fund investments provide investors with a strong level of return over the medium to longer term investment time horizon – which is why the Council was clear at the outset that the investments would be longer term (at least 10 years) in order to benefit from capital growth and generating significantly improved annual investment returns supporting the revenue budget. The overall return is made up of income, achieved via rental streams and capital via the changing value of underlying properties within a fund. While the second element is the most volatile from a year-to-year perspective, the income produced by the funds is relatively stable.

It is clear that it will be many months before the impact of the pandemic on the wider economy and the associated impact on real estate markets is known, however, we are seeing signs of recovery and resilience in certain parts of the economy, and consequently the Funds real estate portfolio. Most funds are able to report relatively high collection rates (approaching 80%) for both the March and June payment dates which is positive – however, the effects of the furlough scheme measures ending and a second wave over the coming months could seriously impact the wider economy and real estate markets.

It is therefore suggested that planned investments be deferred with a review during Spring 2021, when the situation should be clearer, to inform future investment plans.

## REPORT AUTHOR

Please contact Stefan Garner, Executive Director Finance, extension 242, or Jo Goodfellow, Head of Finance, extension 241.

## LIST OF BACKGROUND PAPERS

<i>Background Papers -</i>	<i>Local Government Act 2003</i>
	<i>CIPFA Code of Practice on Treasury Management in Public Services 2017</i>
	<i>Annual Report on the Treasury Management Service and Actual Prudential Indicators 2019/20 – Council 15<sup>th</sup> September 2020</i>
	<i>Treasury Management Strategy &amp; Prudential Indicators Report 2020/21 - Council 25th February 2020</i>
	<i>Budget &amp; Medium Term Financial Strategy 2020/21 - Council 25th February 2020</i>
	<i>Review of the Proposed Investment in Property Funds, Audit &amp; Governance Committee – 29th October 2020</i>
	<i>Financial Healthcheck Period 6, September 2020</i>



**APPENDIX 1**

**Investments held as at 30<sup>th</sup> September 2020:**

Borrower	Deposit £	Rate %	From	To	Notice
Lancashire County Council	3,000,000	0.95%	29-Oct-19	28-Oct-20	-
Thurrock Council	3,000,000	0.83%	10-Oct-19	09-Oct-20	-
Lancashire County Council	3,000,000	1.10%	29-Oct-19	27-Oct-20	-
Lloyds Bank	1,000,000	1.10%	29-Nov-19	30-Nov-20	-
Lloyds Bank	1,000,000	1.10%	29-Nov-19	30-Nov-20	-
North Tyneside Council	5,000,000	1.20%	06-Dec-19	07-Jun-21	-
Bank of Scotland	2,000,000	1.10%	03-Jan-20	04-Jan-21	-
Bank of Scotland	2,000,000	1.10%	03-Jan-20	04-Jan-21	-
Coventry City Council	4,000,000	0.90%	29-Apr-20	28-Apr-21	-
Standard Chartered	5,000,000	0.20%	12-Aug-20	12-Feb-21	-
Santander	10,000,000	0.60%	-	-	180 day
MMF – PSDF	9,171,000	0.10%*	-	-	On call
MMF – Federated	6,000,000	0.11%*	-	-	On call
MMF – Federated	4,000,000	0.04%*	-	-	On call
MMF – Aberdeen	1,401,000	0.07%*	-	-	On call
<b>Total</b>	<b>59.572</b>	<b>0.77 (avg)</b>			

*\* Interest rate fluctuates daily dependant on the funds investment portfolio, rate quoted is approximate 7 day average.*

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## COUNCIL

TUESDAY, 15 DECEMBER 2020

### REPORT OF THE PORTFOLIOHOLDER FOR ASSETS & FINANCE AND MONITORING OFFICER

#### REVIEW OF THE CONSTITUTION AND SCHEME OF DELEGATION

#### EXEMPT INFORMATION

None.

#### PURPOSE

To obtain the Council's approval to the refreshed Constitution (including the Scheme of Delegation).

#### RECOMMENDATION

- 1. That the Council approve and adopt the Council's refreshed Constitution (including the Scheme of Delegation) at Appendix 1.**

#### EXECUTIVE SUMMARY

The 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 Scheme of Delegation, within the Constitution details where the Council delegates to certain officers powers to undertake duties and functions on its behalf.

Article 16 of the Constitution requires the Monitoring Officer to maintain, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Any changes to the Constitution must be approved by full Council after consideration of the proposal by the Monitoring Officer and the Audit & Governance Committee (as necessary).

This refresh of the Constitution has included:

- Advice from the Council's legal advisors to ensure the document remains lawful and accords with best practice.
- Consultation with the Corporate Management Team to ensure the document's application remains practical and is up to date for staff and delegation changes.
- Consideration and endorsement by the Constitution Working Group (comprising cross party membership) which met on 2 March 2020, just prior to the first national Covid-19 lock down.

- Update on the financial limits following the approval of the refreshed Financial Guidance which was approved by the Audit & Governance Committee in July 2020.

The Audit & Governance Committee considered the document at their October 2020 meeting and approved that it be submitted to full Council for final approval.

## **RESOURCE IMPLICATIONS**

None.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Without a constitution, including a Scheme of Delegation, the Council could not operate effectively. The Council would risk failure to comply with statutory requirements which in turn would expose the organisation to further vulnerability from potential legal challenge. Such challenges could lead to serious financial and reputational damage.

## **EQUALITIES IMPLICATIONS**

None.

## **SUSTAINABILITY IMPLICATIONS**

None.

## **BACKGROUND INFORMATION**

None.

## **REPORT AUTHOR**

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Ext: 234

## **LIST OF BACKGROUND PAPERS**

## **APPENDICES**

**Appendix 1** – Proposed Constitution and Scheme of Delegation with tracked changes.

# TAMWORTH BOROUGH COUNCIL



## CONSTITUTION

As approved at the meeting of the Council on the ~~21~~ <sup>18<sup>th</sup>-19<sup>th</sup></sup> May 2019

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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 17 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 – 17 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 (which may also referred to as the ~~Cabinet~~Executive) is made up of the Leader, who is elected by the Council, and an Executive of a maximum of nine councillors whom s/he appoints.

**Commented [A2]:** Cabinet has been replaced with Executive throughout for consistency

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 three 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 Audit and Governance Committee and Nominations Committee. Non councillors may be co-opted onto overview and scrutiny 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 [Tell Us Policy and Procedure; ~~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 [Tell Us Policy and Procedure; ~~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 16.

Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

## 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. Councillors have a duty to the whole of the Borough, but a special role in relation to their ward;
  - (iii) deal with individual casework and act as an advocate ~~for~~ supporting 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 ~~for consideration of~~ inclusion in their agenda for discussion, any local government matters which ~~are~~ 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 (except for excluded matters as defined in the Local Government Act 2000, as amended).

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 at Council meetings in July, September, December and March to present a petition to the Council on their behalf. The petition is thereafter processed as provided in the Petition Scheme.
- (b) **Information.** Citizens have the right to:
  - (i) Attend and report on 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) ~~A~~ttend and report on meetings of the Executive ~~when key decisions are being considered except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.~~;
  - (iii) ~~F~~ind out from the Forward Plan what key decisions will be taken by the Executive and when.;
  - (iv) ~~S~~ee reports and background papers, unless these contain confidential or exempt information and any records of decisions made by the Council and the Executive.;
  - (v) ~~I~~nspect the Council's accounts and make their views known to the external auditor. ~~;~~ ~~and~~
  - (vi) ~~S~~eek information held by the Council under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- (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) ~~T~~he Council itself under its comments compliments and complaints scheme.;
  - (ii) ~~T~~he 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

Subject to any statutory requirements, the Council may determine those plans and strategies to be included in the Policy Framework.

### 2.4.1 Meanings

(a) ~~The Budget and Policy Framework.~~ ~~The policy framework~~ means the Budget and the following plans and strategies:-

- The Council's Procedure Rules as adopted pursuant to this Constitution;
- Pay Policy Statement;
- ~~Investment Strategy;~~
- Corporate Capital Strategy Asset Management Strategy;
- Treasury Management Strategy;
- Licensing Act 2003 Statement of Policy;
- Gambling Act 2005 Statement of Policy;
- Plans and strategies which together comprise the Local Plan;
- ~~The Healthier Housing Strategy~~ Community Safety Plan;
- The Housing Revenue Account Business Plan and Investment;
- Housing Allocations Policy;
- Regulation & Investigative Powers (RIPA) Policy;

(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~~ ~~electing~~ the Leader and resolving to remove 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, with the exception of the Mayor, members are appointed to at least 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 2.2.5;
- (h) changing the name of the area, conferring the title of Honorary Alderman, Freeman, or Freedom of the Borough;
- (i) ~~confirming~~ ~~approving~~ the appointment or dismissal of the Chief Executive & 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 Council's Code of Conduct;
- (l) approving the Chief Officers Pay Scheme (JNC Conditions) as part of Annual Pay Policy;
- (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;
- (n) electing the Mayor and the Deputy Mayor at the annual meeting;
- ~~(m)~~(o) appointing Independent Persons; and
- ~~(n)~~(p) 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 which includes promoting the highest standards of conduct and behaviour during meetings of the Council;
- (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 set out in the left hand column of the table below to discharge the functions conferred by sections 9F24 and 9F24A 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. The membership of the committees and any sub-committees will be politically balanced. Members of the Executive may not be members of overview and scrutiny committees.

Committee	Primary Scope
<p>Health and Wellbeing Scrutiny</p> <p>(The Committee shall comprise 9 members of the Council and one co-opted member with voting rights being a member nominated by Staffordshire County Council)</p>	<p>To provide effective scrutiny of the achievement of the Council's strategic priorities by scrutinising the performance of the Executive and external providers in securing a safe environment in which local people can reach their full potential and live longer, healthier lives :-</p> <ul style="list-style-type: none"> <li>• Statutory Health Obligation</li> <li>• <del>County Council Agreement</del></li> <li>• Leisure</li> <li>• Voluntary Sector</li> <li>• Non HRA Housing</li> <li>• Disability Service</li> <li>• Social Care</li> <li>• Elderly and Vulnerable People Services</li> </ul> <p>To undertake such other scrutiny activities <u>relevant to the committee's scope</u>, as may be required in relation to the performance of the Council, governance, financial management and discharge of statutory functions.</p>
<p>Infrastructure, Safety and Growth 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 priorities and external providers in securing the primary outcome of creating a safe and sustaining thriving local economy and making Tamworth a more aspirational and competitive place to do business, <u>with a focus on</u>:-</p> <ul style="list-style-type: none"> <li>• <u>Infrastructure</u></li> <li>• <u>Education</u></li> <li>• <u>Employment/Inward Investment</u></li> <li>• <u>Town Centre</u></li> <li>• <u>Open Space and Play</u></li> <li>• <u>Public Space Protection Orders</u></li> </ul> <p>Statutory Crime and Disorder obligation; the</p>

	<p>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> <ul style="list-style-type: none"> <li>• <del>Highways</del> - (full Council decision)</li> <li>• <del>Education</del></li> <li>• <del>Employment/Inward Investment</del></li> <li>• <del>Town Centre</del></li> <li>• <del>Open Space and Play</del></li> </ul> <p><u>To undertake such other scrutiny activities, relevant to the committee's scope, as may be required in relation to the performance of the Council, governance, financial management and discharge of statutory functions.</u></p>
<p>Corporate Scrutiny (The Committee shall comprise 9 members of the Council)</p>	<p>To provide effective scrutiny of the achievement of the Council's strategic priorities by scrutinising the performance of the Executive.</p> <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> <ul style="list-style-type: none"> <li>• The Committee shall review and scrutinise matters relating to:-</li> <li>• Forward Plan</li> <li>• Quarterly performance reports</li> <li>• Corporate plan</li> <li>• Major Council lead projects</li> <li>• <del>Commercial</del> Investment <del>S</del>strategy</li> <li>• HRA function</li> <li>• <u>Bi-annually review and scrutinise matters relating to the Local Authority Trading Company's activities and performance.</u></li> </ul> <p><u>To undertake such other scrutiny activities, relevant to the committee's scope, as may be required in relation to the performance of the</u></p>

	<u>Council, governance, financial management and discharge of statutory functions.</u>
Budget Review Joint Scrutiny Committee  The Committees membership includes all non Executive members of the Council	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.
For All Committees	All Committees will consider the following matters as they carry out their primary functions <ul style="list-style-type: none"> <li>• Policy Development</li> <li>• Service Delivery &amp; Performance</li> <li>• Use of technology to ensure access and equality</li> <li>• Use of Corporate assets</li> <li>• Finance</li> </ul>

#### 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;
- ~~(a)~~(b) review and/or scrutinise matters identified as relevant to that committee, including items on the Forward Plan which have not yet been approved and/or implemented;
- ~~(b)~~(c) prepare an annual scrutiny work plan ~~covering two successive periods of six months~~ and 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;
- ~~(e)~~(d) liaise regularly with each other to ensure that there is no duplication between them in respect of scrutiny and review activity;
- ~~(d)~~(e) consider any matter affecting the area or its inhabitants; and
- ~~(e)~~(f) 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)~~(g) appoint Task and Finish Groups as and when required ~~with no more than two operating at any one time~~. Normally the Chair or Vice-Chair of the Committee would Chair such groups and there would be an expectation that any such groups would co-opt external expertise. No external appointees will be able to vote on any matter.

#### 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 the budget and 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, other 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 Executive 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.
- (b) **Scrutiny.** Overview and scrutiny committees and sub-committees may:
- (i) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (ii) review and scrutinise 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;
  - (iii) make recommendations to the Executive and Council arising from the outcome of the scrutiny process;
  - (iv) 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.

- (c) **Finance.** Overview and scrutiny committees and sub-committees may exercise overall responsibility for any finances that may be 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.

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 and the Non Regulatory Committee 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 as Leader; 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 to 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 of Executive members, 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.

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**

~~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, Executive, 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, Scrutiny committee Chair, Deputy Mayor or Mayor.

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 Executive, 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).

#### **Planning Committee**

See Schedule 16 – Local Protocol for Councillors and Officers Dealing with Planning Matters.

#### **Licensing Committee**

Under the Licensing Act 2003 and the Gambling Act 2005, Licensing Sub Committees will be formed in accordance with the Statement of Licensing Policy ~~2015–2020 - 2023~~. The ~~Head of Legal and Democratic Services~~ Monitoring Officer shall determine the makeup of the sub Committees (not necessarily to be politically balanced) with members as far as practically possible serving in rotation).

## Article 9 – Audit & Governance Committee

### 2.8.2 Audit & Governance Committee

The Council will establish an Audit & Governance Committee.

### 2.8.3 Composition

- (a) **Membership.** The Audit & Governance Committee will be composed of at least seven councillors ~~who are not other than a members~~ of the Executive or the Chair 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 Chair and Vice-Chair will be appointed in accordance with Council Procedure Rules.

### 2.8.4 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~~ Head of Internal Audit and Governance'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".
  - ~~(vi) Consider on an annual basis the Local Authority Trading Company's Code of Practice and Governance Statement.~~
- (b) **Regulatory Framework**
  - (i) Maintain an overview of the Council's Constitution, including Contract Procedure Rules, 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 Executive 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**

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**

The Chair of the Audit & Governance Committee will provide an annual report of the Committee's activities to Council. Reports in the form of Minutes detailing action taken by the Committee and recommendations will be submitted to Council on an annual basis.

(e) **Delegated Powers**

The Committee is empowered to deal with the functions detailed above.

(f) **Standards of Conduct**

This Committee, in the form of a sub Committee, shall exercise all the functions of the Council relating to the Members' 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.

Where a complaint is made alleging a breach of the Code, the matter will be considered by a Sub-committee of the Audit & Governance Committee. The Sub-committee will consider the complaint in accordance with the procedure set down in the Council's Arrangements for Making Complaints Against a Councillor for an Alleged Breach of the Code of Conduct.

The Sub-committee shall be made of three members of the Audit & Governance Committee and shall include representation from each political group (where practicable).

The Independent Person(s) appointed by full Council shall attend meetings of the Sub-committee and the Sub-committee shall have regards to the views of the Independent Person(s).

The Monitoring Officer will report to the Audit & Governance Committee regarding an investigation of a complaint if the investigation has not concluded within 6 months of the date of the complaint, and the Audit & Governance Committee may review the investigation of such a complaint, following consideration of the Monitoring Officer's report.

The Council's Arrangements for Making Complaints Against a Councillor for an Alleged Breach of the Code of Conduct is appended. ~~The sub Committee shall be made of three members of the Audit & Governance Committee and shall be politically balanced where practical.~~

## 2.9 Article 10 – Nominations Committee

2.9.1 The Council will establish a Nominations Committee.

### 2.9.2 Composition

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

### 2.9.3 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 approval;~~ Refer any approved applications ~~red~~ 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;
- (g) Bi-annually, promote by way of the Council’s media, ~~insert on the Council website and local newspaper an article providing~~ details of the operation and function of the Committee.

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

**2.10.1 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.



## 2.11 Article 12 - Joint Arrangements

### 2.11.1 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~~, 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.

### 2.11.2 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.

2.11.3 **Access to information**

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

2.11.4 **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.

2.11.5 **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.

## 2.12 Article 13 – Officers

### 2.12.1 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:

Chief Executive

Executive Director – Organisation (Head of Paid Service & Deputy Chief Executive)

Executive Director – Finance

Executive Director – Communities

Assistant Directors:-

Assets

Finance

Growth & Regeneration

Neighbourhoods

Operations & Leisure

Partnerships

People

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

#### STATUTORY OFFICERS

Post	Designation
Executive Director Organisation	Head of Paid Service
Head of Audit & Governance	Monitoring Officer
Executive Director – Finance	Section 151 Officer

Such posts will have the functions described in Article 12.13.2–12.13.4 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.

### 2.12.2 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 Section 151 Officer if a qualified accountant.

2.12.3 **Functions of the Monitoring Officer (to be exercised after consultation with the Chief Executive)**

- (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 Chief Executive and Section 151 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 Chief Executive 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 Section 151 Officer or the Head of Paid Service.

2.12.4 **Functions of the Section 151 Officer (to be exercised after consultation with the Chief Executive)**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Chief Executive and the Monitoring Officer,

the Section 151 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 Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Section 151 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 Section 151 Officer will provide financial information to the media, members of the public and the community.

2.12.5 **Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

2.12.6 **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.

2.12.7 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4, schedule 8 of this Constitution.

## 2.13 Article 14 – Decision Making

### 2.13.1 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.

### 2.13.2 Principles of decision making

All decisions of the Council will be made with due regard to the Members' Code of Conduct and 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;
- ~~(e)~~ the provision of the options considered;
- ~~(f)~~ the provision of reasons for the decision made;
- ~~(g)~~ the proper recording of the reasons;
- ~~(h)~~ compliance with the law and this Constitution; and
- ~~(i)~~ clarity of aims and desired outcomes.

### 2.13.3 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4 will be made by the full Council and not delegated.
- ~~(b)~~ Decisions that are not reserved to full Council under this Constitution or by law or are otherwise delegated by full Council to a Committee or Sub Committee of the Council are Executive decisions and the Leader and Executive have overall responsibility for these decisions.
- ~~(b)~~~~(c)~~ Key decisions are taken by the Executive:-
  - (i) Key decision means any Executive decision to spend or forego income or raise additional income or make savings which is significant having regard to the Council's budget for the service or function to which the decision relates. For the purposes of this paragraph the Council interprets as "significant" any decision to spend ~~or~~ forego income or raise additional income or make savings exceeding £100,000 in one financial year.

or

- (ii) any Executive decision that has a significant effect on two or more wards. For the purposes of this paragraph the Council interprets as "significant" any proposal which will make a substantial physical alteration to the appearance of the area of two or more wards, or any proposal which will substantially alter the level of a Council service given to people who live or work in the area;
- (iii) An Executive 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.

**2.13.4 Decision making by the full Council**

Subject to Article 2.14.8, the Council at their meetings will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

**2.13.5 Decision making by the Executive**

Subject to Article 2.14.8, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

Overview and scrutiny committees will follow the Overview and Scrutiny Procedures Rules, and where applicable the Non-Regulatory Committee Procedure Rules, set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 2.14.8, 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.

**2.13.8 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.

## 2.14 Article 15 – Finance, Contracts and Legal Matters

### 2.14.1 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.

### 2.14.2 Contracts

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

### 2.14.3 Legal proceedings

The ~~Head of Legal & Democratic Services is Executive / Executive Directors~~ are 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 they ~~Head of Legal & Democratic Services~~ considers that such action is necessary to protect the Council's interests.

### 2.14.4 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 ~~Head of Legal & Democratic Services/Executive Director~~ or other person authorised by ~~them/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.~~

~~Any document determined by the by the Monitoring Officer Chief Executive and in accordance with financial guidance to be a deed or otherwise required by law to be sealed, must be sealed with the Common Seal of the Council.~~

### 2.14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the ~~Head of Legal & Legal, Admin & Democratic Services Officer~~. 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 ~~Head of Legal & Democratic Services Chief Executive~~ should be sealed.

### 2.14.6 Affixing of the Common Seal

~~The Common Seal shall be affixed by the Chief Executive or the Monitoring Officer,~~ or some other person authorised by the Chief Executive.

### 2.14.7 Attesting to the Affixing of the Common Seal



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The affixing of the Common Seal will be attested by the Chief Executive or some other person authorised by the Chief Executive.

## 2.15 Article 16 – Review and Revision of the Constitution

### 2.15.1 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.

### 2.15.2 Changes to the Constitution

**Approval.** Any changes to the constitution other than those delegated to the Monitoring Officer as described below 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 or decisions of the full Council or the Executive (in the case of Executive arrangements) may be made by the Monitoring Officer.

## 2.16 Article 17 – Suspension, Interpretation and Publication of the Constitution

### 2.16.1 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 4.24 and Schedule 1, 18.

### 2.16.2 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.

### 2.16.3 Publication

~~(a) — The Head of Legal & Democratic Services Monitoring Officer will ensure that a copy of this constitution is ~~is~~ ~~are~~ published on the Council's website and ~~made~~ available for inspection at the council offices at Marmion House, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.~~

## 2.17 Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

- 2.17.1 Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
- 2.17.2 Article 7 (The Executive) and the Executive Procedure Rules;
- 2.17.3 Article 11 (Area Committees) where the Area Committee is exercising Executive functions;
- 2.17.4 Article 12 (Joint Arrangements) where the Joint committee is exercising Executive functions;
- 2.17.5 Article 14 (Decision making) and the Access to Information Procedure Rules (as they relate to Executive matters);
- 2.17.6 Part 3 (Responsibility for Functions) (as it relates to Executive matters);

### 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	Thirteen Members	<p>Planning and conservation</p> <p>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):</p> <p>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 Executive)</p>	<p>Assistant Director – Growth &amp; Regeneration</p> <p>In accordance with any arrangements approved from time to time by the Planning Committee</p>
Licensing Committee	Thirteen Members	<p>Those functions conferred on the Council in relation to licensing (including liquor licensing), registration, health &amp; safety as contained in Schedule 1, Part B (1-46, 56-70), Part C</p>	<p><del>Chief Executive</del>  <del>Executive</del>  <del>Assistant Director</del>  <del>Growth &amp; Regeneration</del></p>

		(whole), Part I (42) of the Local Government (Functions & Responsibilities) (England) Regulations 2000 (as amended) To determine matters under the Licensing Act 2003 and the Gambling Act 2005	
Appointments and Staffing Committee	Five Members, of which one must be a member of the Executive.	To recommend to full Council the appointment or dismissal of the <b>Chief Executive and Head of Paid Service and Posts</b> designated as Chief Officer (including any such Officers on Chief Officer conditions), <b>including the as well as the</b> Monitoring Officer and S151 Officer.  To determine the terms and conditions on which all staff hold office including procedures dealing with grievance and dismissal.  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.	
Chief Officer Conduct Committee	Five Members of which one must be a member of the Executive	To act as the Investigating Committee or the first stage Committee to hear the case against an employee appointed in	

		<p>accordance with Joint Negotiating Committee terms for Executives or Chief Officers.</p> <p>The Committee will not act as an appellate Committee as such provisions are reserved to the Appointment &amp; 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><del>Assistance to</del>To assist 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 <u>including complaints against members and co-opted members of the Council for breach of the Code of Conduct; and the granting of dispensations pursuant to section 33, Localism Act 2011.</u></p> <p>The Council's complaints procedure.</p>	
Statutory Officer Conduct Committee	Seven comprised of five elected Members of whom one must be a member of the <u>Cabinet Executive</u> and two voting Independent Persons	To recommend to Council any disciplinary action <u>(including dismissal) etc. of statutory officers.</u>	

### 3.3 RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Executive functions shall be subject to the provisions of Section 9E of the Local Government Act 2000 (as amended) and shall be the responsibility of the Leader of the Council. The Leader 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-Monitoring Officer shall as required by Article 7 (2.7.7) maintain a list of delegations of functions which shall form part of this Constitution.

#### Delegated Executive Functions

The Leader has determined that the Executive functions should be discharged by the following portfolio holders



<b>Leader of the Council</b> Cllr Daniel Cook	<b>Assets and Finance</b> Cllr Rob Pritchard (Deputy leader)	<b>Heritage and Regeneration</b> Cllr Jeremy Oates
<b>Portfolio</b>	<b>Portfolio</b>	<b>Portfolio</b>
Business Continuity	Property Management Investment	WMCA Member
TSP (Tamworth Statagic Partnership)	GF Repairs	Local Enterprise Partnerships (LEP's)
Emergency Planning	DFG's	Economic & Business Development
Performance	Commercial Property Portfolio	Tourism / Destination Tamworth
MTFS	Asset Management	Castle
Organisational Development	Revenues & Benefits	Heritage Promotion
PR / Comms / Corporate Consultation	Treasury Management	Education / Educational Attainment
Marketing	Finance	Career Skills and Training
Customer Insight	Procurement	Town Centre Regeneration
Partnership Development	HR & Payroll	Town Centre Master-planning
Member Development	Audit & Governance	TIC
Corporate Assessments	Democratic Services	Town Centre Markets
Corporate Risk Management	Land Charges/Legal/RTB	Heritage Conservation
Commercial Investment Strategy (CIS)	Constitution	
	Customer Services	
	Information	
	Mgt/GDPR/Ombudsman	
	Technology	
	Town Centre Car Parks	
<b>Regulatory and Community Safety</b> Cllr Stephen Doyle	<b>Environment and Culture</b> Cllr John Chesworth	<b>Neighbourhoods</b> Cllr Michelle Cook
<b>Portfolio</b>	<b>Portfolio</b>	<b>Portfolio</b>
Local Plan Development/Implementation	Waste Management	Neighbourhood Services
Development Control (Planning)	Joint Waste Board with LDC.	HRA Repairs
Building Control (Planning)	Street Scene / Tamworth in Bloom	HRA Business Planning
Enforcement	Cemeteries	HRA Neighbourhood Renewal
Environmental Health (Licencing)	Arts / Culture	Tenant Regulation
Licensing Policy	Outdoor Events	HRA Solutions
Health & Safety	Community Leisure / Sport	Homelessness Prevention
Local Health Engagement	Public Toilets	Private Rental Sector
PCC Engagement	Nature Reserves, Parks and Play	HRA Cleaning
Community Safety	Assembly Rooms	Social Landlord Providers
Corporate ASB Strategy	Sports Development	HRA Green Spaces and Neighbourhoods
Safeguarding		HRA Strategy
Civil Parking Enforcement		Tamworth Community Offer
Community Wardens		Voluntary Sector
CCTV		

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## 3.4 SCHEME OF DELEGATION TO OFFICERS

### 3.4.1 Introduction

- (a) In accordance with Article 14 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-Executive~~ 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 9E 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.
- (f) An Officer may decline to exercise delegated powers and instead report to the Council or appropriate Committee or the Executive (whether that is the Leader, the Executive or another appropriate Executive member or committee of the Executive) to make a decision.
- (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 Organisation, Executive Director Finance, Executive Director Communities, Monitoring Officer, ~~Head of Legal & Democratic Services,~~ Assistant Director Organisation, Assistant Director Operations & Leisure, Assistant Director Finance, Assistant

Director Neighbourhoods, Assistant Director Partnerships, Assistant Director Assets, Assistant Director Growth & Regeneration

- (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 Chief Executive by the Leader of the Council as a Member of the Executive;
  - (ix) "Leader of the Council" shall mean the person elected to that position ~~at the Annual~~ **by the full 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.
- (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 Executive, 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 Executive 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 Procedure Rules 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 Procedure Rules and Financial Guidance.

### 3.4.3 Sub-Delegation

- (a) This Scheme includes the power for Authorised Officers to authorise another Officer to exercise the delegation to the Authorised Officer in their name and on their behalf, further delegate any function which has been delegated to them under this Scheme, to another Officer or to other Officers. Every such sub-delegation authorisation shall be in writing, setting out the name of the delegate Officer, the terms and conditions upon which that function is to be performed, and accountability for the performance of the sub-delegated function. The Authorised Officer making such sub-delegation authorisation shall record the sub-delegation authorisation 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 3.4.2 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 ~~Head of Paid Service~~ for appropriate action;
- (viii) The Chief Executive, ~~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 ~~Head of Paid Service~~ may require any Officer to cease the exercise of such powers and duties pending a report to the next meeting of the Council, Executive 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 Executive Director Organisation 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 to apply for job share, with the following exceptions:
- 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 ~~Organisation 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.~~ Notification of all training must be provided to HR so as to ensure accurate records are maintained on the employees' individual HR record.

(h) Paid Leave

Allowable as provided in current policies (Consult Human Resources for advice).

- (i) To action matters arising from the application of the Council's Human Resource policies and procedures.
- (ii) To deal with the appointment of staff and disciplinary/grievance proceedings in accordance with the Council's approved scheme. (Dismissal is referred to the Head of Paid Service in consultation with 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 Head of Paid Service to authorise planned overtime for officers above the overtime limit always subject to budgetary control.

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

A. 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 Executive 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 Finance 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.

Which will require Executive approval;
- (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~~ Executive before the end of June in the new financial year.

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

#### C. Miscellaneous

All authorised Officers shall comply with relevant guidance subject to their specific delegation.

- (a) 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 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 and to share any correspondence replies with those leaders and directors as required.
- (c) In consultation with the Chief Executive other Executive 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 Finance 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~~subject to notifying the Executive Director Finance before actual disposal.
  - (f) After consultation with the relevant Assistant Director 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 Chief Executive and Executive Directors ~~and Head of Legal & Democratic Services~~ as appropriate and reported to the next meeting of the ~~Cabinet Executive~~ 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 Head of Legal & Democratic Services.~~
  - (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 ~~Executive Director Organisation~~ Head of Paid Service 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 Act 2000 and/or Environmental Information Regulations 2004 requests for information.

### 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~~EXECUTIVE/HEAD OF PAID SERVICE

~~Delegations to the Chief Executive/Head of Paid Service also include to the Executive Director Organisation~~

	FUNCTION	AUTHORISED OFFICER
1.	<p><b>Urgent Action</b></p> <p>To take urgent action <del>in relation to any Health, Safety and Wellbeing matters</del>, 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><b>Major Incident/Emergencies</b></p> <p>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.</p> <p>To designate Directors/Managers to carry out emergency functions in accordance with CCU Guidelines and Tamworth Borough Councils Emergency Plan and Business Continuity Procedures.</p>	Chief Executive in consultation with <del>Assistant Director Neighbourhoods or relevant Authorised Officer as far as is practicable</del> <u>Executive Directors and relevant officers</u>
3.	<p><b>Corporate Complaints</b></p> <p>The administration of the Corporate Complaints Procedure <del>known as The Tell Us Policy and Procedure</del>.</p>	Executive Director Organisation
4.	<p><b>Local Government Ombudsman</b></p> <p>To respond to the Local Government Ombudsman in respect of complaints of maladministration made against the Council.</p> <p>To authorise payments or other benefits under Section 92 Local Government Act 2000.</p>	Executive Director Organisation in consultation with the Assistant Director People
5.	<p><b>Head of Paid Service</b></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>	Chief Executive/Executive Director Organisation
	<p>(b) Long service awards and the award of increments within salary grades.</p>	Chief Executive/ Executive Director Organisation

Authority to execute letters and contracts of appointment	Chief Executive/ Executive Director Organisation
(c) The exercise of disciplinary powers over staff (including power immediately to suspend), and to dismiss.	Chief Executive/ Executive Director Organisation
Authority to execute letters of dismissal and settlement agreements to terminate employment <u>(subject to where full Council approval is required)</u> .	Chief Executive/Executive Director Organisation
Authority to vary contracts of employment (subject to Council Polices and Committee decisions) and to execute such letter and contracts of variation	Relevant Authorised officer in consultation with Chief Executive/Executive Director Organisation
Authority to pay overtime and planned overtime above the overtime limit.	<u>Relevant Authorised officer in consultation with Chief Executive / Executive Director Organisation</u>
(d) The signing of Certificates of opinion to accompany applications for exemption for posts from political restrictions.	Relevant Authorised officer in consultation with Chief Executive/Executive Director Organisation
(e) Honoraria to be paid in accordance with NJC conditions, or any local agreement with the following exceptions: <ul style="list-style-type: none"> <li>Duties can be shared between more than one Director but payment would therefore be restricted to one to two increments.</li> </ul>	Any Officer authorised by either the Chief Executive and the Executive Director Organisation
(f) To prepare and sign (or send or otherwise authenticate) any notice, order or other document authorised by the Council.	Chief Executive Executive Director Organisation
(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.	Any authorised Chief Officer in consultation with Chief Executive/Executive Director Organisation
(h) To settle proceedings regarding employment matters <u>in consultation with the Head of Legal &amp; Democratic Services</u>	Any authorised Chief Officer in consultation with Chief Executive/Executive Director Organisation
(i) To agree accelerated increments.	Chief Executive/Executive Director Organisation in consultation with appropriate Executive Directors

<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 <del>Payment</del><u>Settlement</u>.</p> <p><u>(r)</u> Settlement of claims in respect of loss or damage to an employee's personal effects.</p>	<p>Chief Executive/Head of Paid Service in consultation with appropriate Directors</p> <p>Chief Executive/Executive Director Organisation in consultation with appropriate Executive Directors</p> <p>Chief Executive/Executive Director Organisation in consultation with appropriate Executive Directors</p> <p>Chief Executive/Executive Director Organisation in consultation with appropriate Executive Directors</p> <p>Chief Executive/Executive Director Organisation in consultation with Executive Director Finance</p> <p>Chief Executive/Executive Director Organisation</p> <p>Chief Executive</p> <p>Chief Executive/Executive Director Organisation</p> <p>Executive Director Organisation</p>	
<p>6.</p>	<p><b>Returning Officer</b></p> <p>(a) To carry out the duties of Acting Returning Officer and Returning Officer for Parliamentary, Local, County, <del>Fire Police and Crime Commissioner and European Elections</del> and Referendums.</p> <p>(b) To designate Polling Places where necessary in exceptional circumstances for Parliamentary, <del>Fire Police and Crime Commissioner European and</del> 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</p>	<p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive</p>

	by <del>Cabinet</del> , Executive).	
7.	<b>Electoral Registration Officer</b> To act as the Council's Electoral Registration Officer	Chief Executive
8.	<b>Common Seal</b> To attest the Common Seal of the Borough Council To execute and/or attest any document as required on behalf of the Council.	Chief Executive/or any officer authorised by the Chief Executive Chief Executive/ <del>Head of Legal &amp; Democratic Services</del>
9.	<b>Mayor</b> 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.	Chief Executive/Executive Director Organisation/ <del>Legal, Admin &amp; Democratic Services Manager/Head of Audit &amp; Governance/Head of Legal &amp; Democratic Services</del>
10.	<b>Monitoring Officer</b> 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.	Head of Audit & Governance
11.	<b>Local Land Charges</b> To reply to requisitions for a search of the Local Land Charges Register and Enquiries of Local Authorities.	<del>Head of Legal &amp; Democratic Services</del> Executive Director Organisation
12.	<b>Town and Village Greens</b> To consider applications for, and where appropriate, register Town and Village Greens under the Commons Registration Act 1965 and the Commons Act 2006.	<del>Head of Legal &amp; Democratic Services</del> Chief Executive

13.	<b>Representation in Court</b> To authorise the appearance of persons other than Solicitors pursuant to Section 223 of the Local Government Act 1972.	<del>Head of Legal &amp; Democratic Services in consultation with the relevant</del> Relevant Executive Director
14.	<b>Legal Proceedings (Civil)</b> (a) To institute, defend, appeal from, settle or abandon legal proceedings whether administrative 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.	<del>Head of Legal &amp; Democratic Services in consultation with the appropriate authorised Officer</del> Relevant Executive Director

	(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.	<del>Relevant Executive Director Head of Legal &amp; Democratic Services in consultation with the appropriate authorised Officer</del>
15.	<b>Legal Agreements/Public Notices</b>  To be responsible for:  (a) the execution of legal agreements pursuant to the Council's Procedural and Contract Rules.  (b) the issue of Public Notices	<del>Relevant Executive Director Head of Legal &amp; Democratic Services in consultation with authorised Officer</del>
16.	To make a charge on a property when an individual enters Part III residential accommodation.	<del>Head of Legal &amp; Democratic Services in consultation with authorised Officer</del> <del>Executive Director Communities</del>
17.	To enter into Deed of Release and/or Variation in landlord tenant matters.	<del>Head of Legal &amp; Democratic Services in consultation with authorised Officer</del> <del>Executive Director Communities</del>
18.	To take peaceable re-entry of leasehold property in the event of occupation of property not in agreement with agreed terms.	<del>Head of Legal &amp; Democratic Services in consultation with authorised Officer</del> <del>Executive Director Communities</del>
19.	To enter into nomination agreements on housing matters.	<del>Head of Legal &amp; Democratic Services in consultation with authorised Officer</del> <del>Executive Director Communities</del>
20.	To enter into Highway Bond Agreements under Sections 219 to 220 Highways Act 1980.	<del>Head of Legal &amp; Democratic Services in consultation with authorised Officer</del> <del>Relevant Executive Director</del>
21.	<b>Implementation of Decisions</b>  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.	<del>Chief Executive in consultation with the Head of Legal &amp; Democratic Services</del>
22.	<b>Compulsory Purchase Orders</b>  To make, vary and/or amend Compulsory Purchase Orders.	<del>Head of Legal &amp; Democratic Services in consultation with relevant</del> <del>Relevant Assistant Executive Director</del>

23.	<b>Property Management</b> Service of notices under Section 25 of the Landlord & Tenant Act 1954 to enable rents and any other new terms to be negotiated.	<del>Head of Legal &amp; Democratic Services in consultation with relevant</del> <del>Assistant Director</del> <u>Relevant Executive Director Communities</u>
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.	<del>Head of Legal &amp; Democratic Services in consultation with authorised Officer</del> <u>Executive Director Communities</u>
25.	<b>Council Halls/Meeting Rooms</b> 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.	Chief Executive in consultation with Assistant Director Assets and Leader of the Council
26.	<b>Hire of Civic Accommodation</b> 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.	Assistant Director People
27.	<b>Regulation of Investigatory Powers Act 2000</b> To make any necessary amendments to the Covert Surveillance Policy and Procedural Guidance documentation.	<u>Executive Director Communities</u> Assistant Director Partnerships

28.	<b>Data Protection Act 1998</b> <del>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.</del>	<del>Assistant Director People</del>
29.	To determine arrangements for the inspection of background papers for meetings.	<del>Head of Legal &amp; Democratic Services</del> <u>Legal, Admin and Democratic Services Manager in consultation with the Executive Director Organisation</u>
30.	<b>Members' Allowances Scheme</b> 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.	<u>Executive</u> Director Finance and Head of Audit & Governance
31.	<b>Entertainment of Civic Guests/Hospitality</b>	



	<p>Authority to approve arrangements and expenditure in respect of the entertainment of civic guests within approved budget.</p> <p>To arrange all civic ceremonies and ancillary events in consultation with the Mayor.</p>	<p>Chief <del>Executive/Head of Legal &amp; Democratic Services</del></p> <p>Chief <del>Executive /Executive</del> Director Organisation <del>Head of Legal &amp; Democratic Services</del></p>
32.	<p><b>Courses &amp; Seminars</b></p> <p>To approve the attendance of Members at courses and seminars.</p>	<p>Chief <del>Executive, Executive</del> Director Organisation;</p>

**(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 Executive Director ~~Place Communities having taken in~~ consultation as necessary, with the Council's legal advisors, 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.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(ii)	To approve variations in rent arising from rent reviews of land and property leased to or by the Council.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(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.	Chief Executive <del>in consultation with Executive Director Communities in consultation with the Head of Legal &amp; Democratic Services</del>
(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.	Chief Executive <del>in consultation with the Executive Director Communities in consultation with the Head of Legal &amp; Democratic Services</del>
(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.	Assistant Director Assets <del>in consultation with the Head of Legal Services &amp; Democratic Services</del>
(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.	Assistant Director Assets <del>in consultation with the Head of Legal Services &amp; Democratic Services</del>
(vii)	To arrange for payment of appropriate rates, charges and taxes.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(viii)	To approve claims for disturbance arising out of compulsory and voluntary acquisitions.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(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.	<del>Executive Director Communities</del> Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>

(x)	To approve modifications or additions to Council land and property funded by third parties.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(xi)	To authorise works of improvement or repair to Council land and property.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(xii)	To authorise building maintenance work.	Assistant Director Assets <del>in consultation with the Head of legal &amp; Democratic Services</del>
(xiii)	To authorise the design and execution of building and incidental work.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(xiv)	To commission building contracts to be entered into by the Council.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
(xv)	To commission feasibility studies and value for money appraisals on all capital investments.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>
<del>(xvi)</del>	<del>To authorise persons to apply for liquor and associated licences for use on Council premises.</del>	<del>Assistant Director Growth &amp; Regeneration in consultation with the Head of Legal &amp; Democratic Services</del>
(xvii)	To proceed with compulsory acquisition of rights over land under the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation.	Assistant Director Assets <del>in consultation with the Head of Legal &amp; Democratic Services</del>

**(C) RESOURCES**

	<b>FUNCTION</b>	<b>AUTHORISED OFFICER</b>
	<b>Banking Arrangements and Cheques</b>	
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 Finance
2.	Arrangements for overdraft facilities as necessary within the limit authorised by the Council.	Executive Director Finance
3.	The creation, investment, realisation and utilisation of sinking funds, reserves, capital funds and receipts and other special funds.	Executive Director Finance
4.	To administer and act as Registrar in respect of existing Council bonds, including discretion to make premature payment.	Executive Director Finance
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 Finance
6.	To exercise (as far as may be lawful) the powers of the Council to borrow and invest.	Executive Director Finance
	<b>Finance</b>	
7.	Determination of accounting procedures and the form and extent of financial records.	Executive Director Finance
8.	Production and distribution of financial management information.	Assistant Director - Finance
9.	Financial negotiations with external bodies in Consultation with the Chief Executive and Solicitor & 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 Finance

10.	Approval of accounts for payment, having been satisfied that payment is lawful and that property certification procedures have been followed.	Any Authorised Officer
11.	Co-ordination, control and supervision of all monies due to the Council.	Executive Director Finance
12.	Issue of all cheques appropriately signed for: <ul style="list-style-type: none"> <li>• cheques below £10,000 bearing facsimile signature</li> <li>• cheques in excess of £10,000 bearing the autograph signature of authorised officers.</li> </ul>	Executive Director Finance
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 Finance
14.	Registrar of Council Bonds and Stock Issues.	Executive Director Finance
15.	Approval of all petty cash floats and imprests to officers.	Executive Director Finance
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 Finance
17.	Declarations and Certificates relating to Securities.	Executive Director Finance
18.	The Executive Director Finance shall be the delegated officer for signing/authorising any statutory, legal, grant documents requiring the signature of a finance officer.	Executive Director Finance
19.	The payment and reimbursement of monies in respect of Benefit Scheme and Grant Subsidy income.	Executive Director Finance
	The Executive Director Finance to report quarterly to Council on the Councils Financial Position.	Executive Director Finance
21.	To determine the method of financing of capital projects within the overall financing reserves strategy of the Council.	Executive Director Finance
22.	To arrange credit cards and limits for staff use on behalf of the Council	Assistant Director Finance

23.	<p><b>National Non Domestic Rates</b></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 Finance
24.	<p><b>National Non Domestic Rates</b></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 Finance
25.	Any action necessary in respect of the recovery of rates including void rates.	Executive Director Finance
26.	Action on Valuation Officer's proposals for revision of rating assessments.	Executive Director Finance
27.	Lodging of proposals by the Council for revision of existing rating assessments.	Executive Director Finance
28.	To deal with the remission of Non-Domestic Rates under statute.	Assistant Director Finance Executive Director Finance
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 Finance
30.	To process claims for discretionary rate relief applications as approved by the Portfolio Holder.	Assistant Director Finance
31.	Making allowances under Section 47 and Section 48 of the Local Government Finance Act 1988.	Executive Director Finance
32.	<p><b>Mortgages &amp; Advances</b></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 Finance

33.	To deal with applications for advances on mortgages for house purchase, etc., under the Housing Act 1980 where no special considerations arise.	Executive Director Finance
	<b>Sundry Income &amp; Miscellaneous Rents</b>	
34.	To collect income of the Council, including: <ul style="list-style-type: none"> <li>the recovery of unpaid income of the Council by the issue of summonses or otherwise, including proceedings in tribunals and inferior courts</li> <li>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.</li> <li>The writing off of Court costs in respect of rates and council tax.</li> <li>The payment of sums properly payable from the Collection Fund.</li> <li>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.</li> <li>The determination of on-costs and rates of interest in respect of any sums due where such on-cost or interest is properly chargeable.</li> <li>To set fees in consultation with the Data Protection Officer in consultation with Executive Director, 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.</li> </ul>	Executive Director Finance in conjunction with the authorised Officer.
	<b>Insurances</b>	
35.	Management of the Council's insurances including the renewal of policies within long term agreements.	Executive Director Finance
36.	Approval of payments from the insurance fund in respect of claims meeting the criteria and terms of self-insured risks. 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 of claims against the insurer or by a claimant (so far as permitted by the insurer).	Executive Director Finance
	<b>Car Loans &amp; Allowances</b>	
37.	The day to day grant and administration of car loans, and financial allowances to staff, including the	Executive Director Organisation/Executive Director

	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. The authorisation /sign off of car loan agreements	Finance
38.	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 <del>3</del> 2% (in line with scheme conditions for term rates).	Executive Director Finance
39.	Determination of eligibility for the amount of loan within approved policy.	Executive Director Organisation
40.	Determination of eligibility for car purchase loans within approved policy.	Executive Director Organisation and appropriate authorised Officer
41.	Management of the Council's Car Allowance Scheme in accordance with approved guidelines.	Executive Director Organisation, Assistant Director People and relevant authorised officer
	<b>Remuneration &amp; Organisational Review</b>	
42.	(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 <del>Cabinet</del> Executive/Council resolution).	Executive Director Organisation and Assistant Director People
	(b) Advance payments of salaries, wages and allowances (excluding Member allowances) to be made in accordance with the Financial Regulations.	Executive Director Organisation, Assistant Director People
43.	<b>Representation of Council in Court</b>  To authorise appropriate staff to represent the Council in Court in respect of Sundry Income, Council Tax and Non-Domestic Rates debt.	Executive Director Finance, Assistant Director Finance <del>and Head of Legal &amp; Democratic Services</del>



44.	<p><b>Health &amp; Safety</b></p> <p>a) 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.</p> <p>b) In respect of the Council's employees to instruct them to cease work where it may constitute a risk to their or others health and safety or where there is a breach of a statutory duty.</p>	<p>Chief Executive/Assistant Director Growth &amp; Regeneration</p> <p>Executive Director Organisation/Chief Executive</p>
45.	<p><b>Write-offs</b></p> <p>In respect of all write-off's below £10,000.</p>	<p>Executive Director Finance</p>
	<p><b>Housing Benefit, &amp; Council Tax Benefit and Council Tax Reduction</b></p>	
46.	<p>To take all necessary action in the general administration, implementation and enforcement of the Housing Benefit Regulations 2006, the Council Tax Benefit Regulations 2006 and the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and Staffordshire County Council's Charging for Residential Accommodation Guide including the submission of returns, funding arrangements, and other such documents.</p>	<p>Assistant Director Finance</p>
47.	<p>To apply administration penalties, sanctions and administer Cautions under current legislation in relation to Social Security and Council Tax Reduction fraud.</p>	<p>Assistant Director Finance /Head of Benefits</p>
48.	<p><b>Council Tax</b></p> <p>Lodging of proposals by the Council for revision of existing bandings.</p>	<p>Executive Director Finance</p>
49.	<p>(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:</p> <ul style="list-style-type: none"> <li>• To give due notice of the agreed Council Tax in the manner provided by Section 38(2) of the 1992 Act.</li> <li>• To calculate the Council Tax Base for the whole Council area [Item T in the formula in Section 31B(3) of the 1992 Act as amended]</li> </ul>	<p>Executive Director Finance</p>
	<ul style="list-style-type: none"> <li>• To apply when necessary for a summons against any Council Tax payer or non-domestic ratepayer</li> </ul>	<p>Executive Director Finance</p>

	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.	
	<ul style="list-style-type: none"> <li>To collect (and disperse from the relevant accounts) the Council Tax and National Non-Domestic Rate.</li> </ul>	Executive Director Finance
	(b) To impose or revoke penalties under the provisions of Schedule 3 of the Local Government Finance Act 1992 (as amended).	Executive Director Finance
	(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 Finance
	(d) To determine applications for awards of Local Council Tax discount, under Section 13A of the Local Government Finance Act 1992, in cases of hardship.	Executive Director Finance
	(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 Finance
50.	Town & Country Planning Act 1990 To determine and allocate S106 funding for appropriate projects and activities	Assistant Director Finance Assistant Director Growth & Regeneration both in consultation with the approved mechanism for the expenditure of Section 106 funding

#### (D) HOUSING AND HEALTH

	FUNCTION	AUTHORISED OFFICER
	<b>Consultation</b>	
1.	To consult and promote participation of tenants in service development.	Executive Director Communities
	<b>Government Returns</b>	
2.	Complete relevant returns annually in line with the agreed capital programme and strategy.	Executive Director Communities
	<b>Tenants' Improvements</b>	
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 with building	Executive Director Communities/ <u>Assistant Director Assets</u>

	regulations and planning requirements.	
	<b>Improvements to Sold Council Dwellings</b>	
4.	Approval or refusal of applications from owners of sold Council dwellings:-	Executive Director Communities/ <u>Assistant Director Assets</u>
	(a) To carry out internal improvements or external improvements not involving significant additions to the existing building.	Executive Director Communities/ <u>Assistant Director Assets</u>
	(b) To carry out significant external improvements.	Executive Director Communities
	<b>Rents &amp; Management Matters</b>	
5.	(a) Fixing of rents for properties on Council housing estates used for special purposes.	Executive Director Finance and Executive Director Communities
	(b) Payment of sums as approved to tenants in respect of their transfer from under-occupied housing of any type to smaller properties.	Executive Director Communities Assistant Director Neighbourhoods
	(c) To deal with tenant consultation in accordance with the Council's policy and current legislation.	Executive Director Communities/ <u>Assistant Director Neighbourhoods</u>
	(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.	Executive Director Communities/ <u>Assistant Director Neighbourhoods</u>
	(e) Service of Notice of Variation of Rent.	Executive Director Communities
	(f) Amendments to tenancy terms in accordance with the Council's policy.	Executive Director Communities <del>in consultation with Head of Legal &amp; Democratic Services</del>
	(g) Fixing of standard charges for rechargeable repairs.	Executive Director Communities/Assistant Director <u>Assets Neighbourhoods</u>
	(h) Approval of applications for "three room scheme" of internal redecoration.	Executive Director Communities Assistant Director Neighbourhoods

	(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.	Executive Director Communities Assistant Director Neighbourhoods
	(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.	Executive Director Communities -Assistant Director Neighbourhoods <u>Assistant Director Assets</u>
	(k) Ordering of works of alteration within budget provision to Council properties to meet the needs of disabled persons.	Executive Director Communities Assistant Director <u>Assets</u> <del>Neighbourhoods</del>
	(l) Issue of distress warrants for rent arrears.	Executive Director Communities Assistant Director Neighbourhoods
	<b>Homelessness</b>	
6.	(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.	Executive Director Communities Assistant Director Neighbourhoods
	(b) Determination of appeals against decisions in homelessness cases in accordance with approved policy guidelines.	Executive Director Communities Assistant Director Neighbourhoods
	(c) Authorisation to give rent guarantees as part of the duty to provide advice and assistance and the prevention of homelessness.	Executive Director Communities Assistant Director Neighbourhoods
	(d) To deal with the leasing of private sector properties in accordance with the Council's approved scheme.	Executive Director Communities Assistant Director Partnerships

	<b>Allocation Scheme</b>	
7.	<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>Executive Director Communities / <del>Assistant Director Partnerships</del>/Assistant Director Neighbourhoods</p> <p>Executive Director Communities <del>Assistant Director Partnerships</del>/Assistant Director Neighbourhoods</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>Executive Director <del>Partnerships</del> <u>Communities</u>/Assistant Director Neighbourhoods</p> <p>Executive Director Communities / Assistant Director Partnerships/Assistant Director Neighbourhoods</p> <p>Executive Director Communities</p> <p>Executive Director Communities</p> <p>Executive Director Communities</p>
8.	<b>Provision of Council Housing in Special Cases</b>	
	<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>Executive Director Communities / Assistant Director Partnerships/Assistant Director Neighbourhoods</p> <p>Executive Director Communities/ Assistant Director Partnerships/Assistant Director Neighbourhoods</p>

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

	<b>Sales of Housing</b>	
12.	Signature of TP1 and Right to Buy (RTB) forms in connection with Housing Act 1985 <u>unless under seal which would require the Chief Executive's authority.</u>	<del>Head of Legal &amp; Democratic Services</del> Chief Executive Executive Director Organisation
13.	<p>In respect of sales under the Housing Act 1985, the Housing &amp; 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><del>Head of Legal &amp; Democratic Services</del> Executive Director Organisation</p> <p><del>Head of Legal &amp; Democratic Services</del> Executive Director Organisation</p> <p><del>Head of Legal &amp; Democratic Services</del> Executive Director Organisation</p> <p><del>Head of Legal &amp; Democratic Services</del> Executive Director Organisation</p> <p>Assistant Director Assets</p> <p>Assistant Director Assets</p> <p>Executive Director Communities</p> <p>Assistant Director Assets</p> <p>Assistant Director Assets</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;	<del>Head of Legal &amp; Democratic Services</del> <del>Executive Director Organisation</del>
	(i) Appeal against discretionary determinations.	<del>Head of Legal &amp; Democratic Services</del> <del>Executive Director Organisation</del>
	<b>Tenants' Right to Repair</b>	
14.	(a) Authority to operate statutory schemes under Right to Repair legislation.	Assistant Director Assets
	(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.	Assistant Director Assets
	<b>Harassment</b>	
15.	Investigation of complaints or alleged offences including the instigation of legal proceedings and prosecutions, under Landlord & Tenant Act 1962 and under the Protection from Eviction Act 1977 and under the Protection of Harassment Act 1997.	Executive Director Communities / Assistant Director Neighbourhoods / <del>Assistant Director Partnerships</del>
16.	To determine applications for transfer from tenants suffering from harassment.	Executive Director Communities / Assistant Director Neighbourhoods
	<b>Private Tenants – Restoration of Services</b>	
	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).	Executive Director Communities /Assistant Director Partnerships
	<b>Private Sector Housing</b>	
18.	(a) To exercise all of the Council's powers and duties under the housing/public health statutes set out in Annex 1 and any Regulations and Orders made thereunder.	Executive Director Communities Assistant Director Partnerships
	(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.	Executive Director Communities Assistant Director Partnerships
	<b>Authorised Signatories for Affordable Housing Funded Schemes</b>	



19.	(a) Authority to sign Local Authority Social Housing Grant applications, subject to available Capital Funding.	Executive Director Communities Assistant Director Partnerships
	(b) Authority to sign Housing Association Grants claims.	Executive Director Communities Assistant Director Partnerships
	(c) Authority to sign scheme work certifications.	Executive Director Communities Assistant Director Partnerships
	<b>Infill Housing Sites on Council Housing Estates</b>	
20.	Authority to approve sites before proceeding further.	Executive Director Communities
21.	Authority to dispose of surplus sites to Registered Social Landlords for provision of new affordable housing.	Executive Director Communities
	<b>Demolition of Unfit Properties/Garage Sites</b>	
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.	Executive Director Communities / <del>Assistant Director Assets in consultation with Head of Legal &amp; Democratic Services</del>
	Public Health - Public Health Act 1936	Executive Director Communities
23.	Incurring of expenditure in premises requiring emergency cleansing on a discretionary basis.	Executive Director Communities / <del>Assistant Director Assets</del>
24.	To set charges for individual alarm units that cover the actual cost of purchase by the Council.	Executive Director Communities / <del>Assistant Director Neighbourhoods / Assistant Director Assets</del>
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.	Executive Director Communities / <del>Assistant Director Neighbourhoods / Assistant Director Assets</del>

**(E) COMMUNITIES, PLANNING AND PARTNERSHIPS**

	<b>Building Control</b>	
1.	Notices and action under Sections 16 and 18 of the Building Act 1984.	Assistant Director Growth & Regeneration <del>through Partnership Agreement with</del> <u>but delegated to joint arrangements hosted by</u> Lichfield District Council <del>and South Staffordshire Council</del>
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.	Assistant Director Growth & Regeneration through Partnership Agreement with Lichfield District Council
3.	Notices and action under the Building Regulations 2000 and subsequent amendments thereto.	Assistant Director Growth & 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.	Assistant Director Growth & Regeneration in consultation with Executive Director Finance through Partnership Agreement with Lichfield District Council
	<b>Clean Air – Height of Chimney</b>	
5.	Notices and action under Section 10 of the Clean Air Act 1956 (Height of Chimneys – for development control purposes).	Assistant Director Growth & Regeneration
	<b>Scaffolding &amp; Hoarding</b>	
6.	Issue of licences and appropriate actions under Section 169, 171 and 172 of the Highways Act 1980.	Authorised officers through Partnership Agreement with Lichfield District Council
	<b>Party Wall Act 1996</b>	
7.	Appointment of “third” surveyor under Section 10 of the Party Wall Act 1996.	Assistant Director Growth & Regeneration <del>&amp; Assistant Director Assets through Partnership Agreement with</del> <u>Lichfield District Council</u>
	<b>Protection of Buildings during Demolition</b>	
8.	Action under Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.	Assistant Director Growth & Regeneration through Partnership Agreement with Lichfield District Council

		Council
	<b>Uninspected Work</b>	
9.	Laying open uninspected work under Regulation 15 of the Building Regulations 2000.	Assistant Director Growth & Regeneration through Partnership Agreement with Lichfield District Council
	<b>Development Control Functions</b>	
10.	The Development Control Functions set out in the Appendix 2 hereto.	Assistant Director Growth & Regeneration
	<b>Emergency Tree Works</b>	
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).	Assistant Directors Operations & Leisure/Growth & Regeneration
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.	Assistant Director Growth & Regeneration/
	<b>Cable Television</b>	
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.	Assistant Director Growth & Regeneration
	<b>Advertising Boards</b>	
14.	Determination of applications for 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.	Assistant Director Growth & Regeneration
	<b>Demolition</b>	
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.	Assistant Director Growth & Regeneration

16.	To determine whether to approve the submission of subsequent details of demolition/restoration under the relevant regulations.	Assistant Director Growth & Regeneration
<b>Town &amp; Country Planning Act 1990 (as amended)</b>		
17.	(a) To issue & serve planning contravention notices under Section 171C of the Act and to consider any representations subsequently received.	Assistant Director Growth & Regeneration
	(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.	Assistant Director Growth & Regeneration
	(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.	Assistant Director Growth & Regeneration
	(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.	Assistant Director Growth & Regeneration

	(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.	Assistant Director Growth & Regeneration
	(f) Not to take enforcement action in those cases where it would be in expedient.	Assistant Director Growth & Regeneration
	<b>Planning &amp; Compensation Act 1991</b>	
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.	Assistant Director Growth & Regeneration
	<b>Listed Buildings</b>	
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.	Assistant Director Growth & Regeneration
	<b>Planning Briefs</b>	
20.	Approval of planning briefs in accordance with planning policy.	Assistant Director Growth & Regeneration
	<b>Street Naming and Numbering</b>	
21.	Towns Improvement Clauses Act 1847, Public Health Acts Amendment Act 1907 and Public Health Act 1925  Numbering and re-numbering of premises in streets.	Assistant Director Growth & Regeneration

22.	<b>Allocation of new street names</b> Planning Act 2008 Community Infrastructure Levy Part II – General administration to include undertaking enforcement and amending and publishing the Regulation 123 List.	Assistant Director Growth & Regeneration
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**(F) ASSETS AND ENVIRONMENT**

	FUNCTION	AUTHORISED OFFICER
1.	<b>Highways &amp; Transportation Services - Regulatory Functions</b> The Highway & Transportation functions set out in Appendix 3.	Assistant Director Assets
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.	Assistant Directors Assets, Partnerships, Operations & Leisure
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]	Assistant Director Assets
4.	Position of litter bins.	Assistant Director Operations & Leisure
5.	Selection of sites for and planting of street trees within approved estimates.	Assistant Director Operations & Leisure
6.	<b>Permits</b> <del>Issue of permits for vehicles to enter the High Street in accordance with the terms of the Traffic Order(s).</del>	No longer a Council function.
67.	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 <u>relevant Authorised Officer</u> <del>Head of Legal &amp; Democratic Services</del> considers an order under the Town Police Clauses	The relevant Authorised Officer <del>in consultation with the Head of Legal &amp; Democratic Services.</del>

	Act 1847 is inappropriate.	
	<b>Hackney Carriages &amp; Private Hire Vehicles</b>	
<del>78.</del>	(a) Substitution of vehicles under existing Hackney Carriages and Private Hire Licences.  (b) Transfer of ownership of Hackney Carriages and Private Hire Vehicles.  (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.	Assistant Director Growth & Regeneration
<del>89.</del>	<b>Allotments</b>  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.	Assistant Director Assets
<del>94.</del>	Routine management of allotment plots in accordance with Smallholdings and Allotments Act 1908 and Allotments Act 1922.	Assistant Director Assets
	<b>Cemetery &amp; Crematorium</b>	
<del>104.</del>	Management of the Cemetery and Crematorium in accordance with Cemetery and Crematorium Rules and appropriate statutory provisions.	Assistant Director Operations & Leisure
	<b>Commercial Transport</b>	
<del>112.</del>	Appointed Licence holder for any commercial transport for the Council	Chief Executive

**(G) MISCELLANEOUS**

	<b>Emergency Planning</b>	
1.	All matters relating to the preparation, production, maintenance and implementation of the Council's Emergency Peacetime and Civil Defence Plans.	Assistant Director Neighbourhoods

	<b>Public Transport</b>	
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.	Authorised Officer
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.	Authorised Officer
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.	Authorised Officer
5.	To serve a 42 day Notice of Deregulation	
	<b>Stopping Up</b>	
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.	Authorised Officer
	<b>Traffic Regulation Orders</b>	
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 <del>Cabinet</del> <u>Executive</u> as appropriate.	Authorised Officer
	<b>Formal Cautions</b>	
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.	Assistant Directors, Growth & Regeneration, Partnerships, Head of Environmental Health
	<b>Public Health Acts (Amendment) Act 1907</b>	



9.	Authority to act on behalf of the Council in respect of the provisions of the Public Health Acts (Amendment) Act 1907.	Appropriate Authorised Officer
10.	Wildlife and Countryside Act 1981	Appropriate Authorised Officer
11.	Guard Dogs Act 1975 (as amended)	Appropriate Authorised Officer
12.	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).	Appropriate Authorised Officer
	<b>Information and Communication Technology</b>	
13.	To enter into contracts for the provision of information technology systems	Appropriate Executive Director in consultation with the Assistant Director People

**ANNEX 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 Executive Director Communities 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 <u>mandatory and discretionary</u> disabled facilities grants.  <del>DFG's and HRA grants are carried out by property services who are under the Deputy Corporate Director Growth, Assets and Environment. Private Sector Housing undertake empty property grants so will need these delegations but they must also be put in appendix 3.</del>
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.
Mobile Homes Act 2013	Sections 1-7 and 12-14
Public Health Act 1961 (as amended)	Sections 17 and 34
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.
<a href="#">Housing and Planning Act 2016</a>	<a href="#">Part II – Rogue Landlords and property agents in England</a>
Local Government (Miscellaneous Provisions) Act 1976	Section 16, 29 & 35
Local Government (Miscellaneous Provisions) Act 1982	Sections 27, 29, 30 31 & 32, 33
Building Act 1984	Sections 59, 60, 64, 76, 79
Environmental Protection Act 1990	Part III Statutory Notices
Anti Social Behaviour, Crime and Policing Act 2014	All sections and powers within the Act which are relevant to Local Authorities with effect from 1 October 2014
Protection from Eviction Act 1977	Parts I, II and III
Protection from Harassment Act 1997	Sections 1-7
Enterprise and Regulatory Reform Act 2013	Part 6 Miscellaneous Provisions

## ANNEX 2

### DEVELOPMENT MANAGEMENT FUNCTIONS

The following functions are delegated to the Assistant Director Growth & Regeneration subject to any conditions set out below:

1. Power to determine applications for certificates of lawfulness under the Town and Country Planning Act 1990 as amended by 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 Part 2 Article 4 of the Town & Country Planning (Development Management Procedure) (England) Order 2015.

3. Decisions under the Town & Country Planning (EIA) Regulations 2011 as to:-

(a) whether or not an environmental impact assessment is needed (screening opinion);

and

(b) the main effects of a development which an Environmental Statement should cover (scoping opinion)

4. Determination of all applications for planning permission, permission in principle (PIP's), technical consents, listed buildings, conservation area and advertisement consents, and Certificates of Lawfulness of Proposed Use or Development (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 floor space or development on sites of 1 hectare or more

5. Power to decline to determine applications for planning permission under section 70A (following a refusal at appeal where there has been no substantial change to the proposal) and 70B (for an application for a similar application which is still to be determined) of the Town and Country Planning Act 1990.

6. ~~Head of Legal & Democratic Services~~ Tto 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 determine all applications for planning permission (except for major developments ++) requiring a payment to be made in accordance with an agreed charging schedule approved by Council.

8. To deal with the administration of all aspects of development management matters including:

(a) validation of all applications for planning permission, planning in principle, technical consents, listed building, conservation area and advertisement consents in accordance with the adopted validation scheme

(b) consultation with appropriate bodies and persons in accordance with national legislation and council policy

(c) the wording of planning conditions, planning obligations, policy reasons for approval and reasons for refusal

(d) preparation and signature of decision notices in respect of planning applications, listed building, conservation and advertisement consents

(e) the approval of or refusal to accept minor variations to submitted plans, planning permissions, listed building consents, conservation area consents and advertisement consents

(f) 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

9. 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.

10. Determination of applications for discharge and variation of conditions, and non material amendments to planning applications under the Town & Country Planning (Development Management Procedure) (England) Order 2015.

11. Determination of applications for prior notification relating to development pursuant to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

12. To make and confirm Tree Preservation Orders.

13. 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.

14. Determination of applications under the Anti-Social Behaviour Act 2003 on respect of high hedges.

15. Determination of application for Hedgerow Removal Notices and Hedgerow Retention Notices under the Hedgerow Act 1997.

16. To receive and investigate any alleged breach of planning control, including the carrying out of any administrative duties associated therewith

17. In consultation with the Council's legal advisors as necessary, Head of Legal & Democratic Services to issue:-

- (a) Stop notices and enforcement notices
- (b) Building preservation notices
- (c) Discontinuance notices in respect of advertisements
- (d) Requisition for information notices
- (e) Breach of condition notices
- (f) Planning contravention notices
- (g) Section 215 notices in respect of untidy land and buildings
- (h) Determine applications for Certificates of Lawful Use or Development

18. 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.

19. To respond, if necessary in consultation with the portfolio holder, to consultations on planning proposals from neighbouring authorities or the County Council.

20. To make and confirm an order for the stopping up, or diversion of a public footpath, under Section 257 of the Town and Country Planning Act 1990, unless substantive objections are received.

21. 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

22. Naming (and renaming) and numbering (and renumbering) of streets and all necessary consultation with the residents and statutory bodies in respect of this duty.

~~23. To carry out relevant duties and functions imposed on the Council by the **Anti-social Behaviour, Crime and Policing Act 2014**~~

### **Conditions**

#### **Members**

The Assistant Director Growth & Regeneration / shall refer applications under Paragraph 4(a) and 4(b) above to the Planning Committee for determination where any Member 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 Manager and the issues/concerns remain unresolved. The Member will be informed of the date of the meeting so that s/he can attend and speak in support of the referral.

#### **Objections**

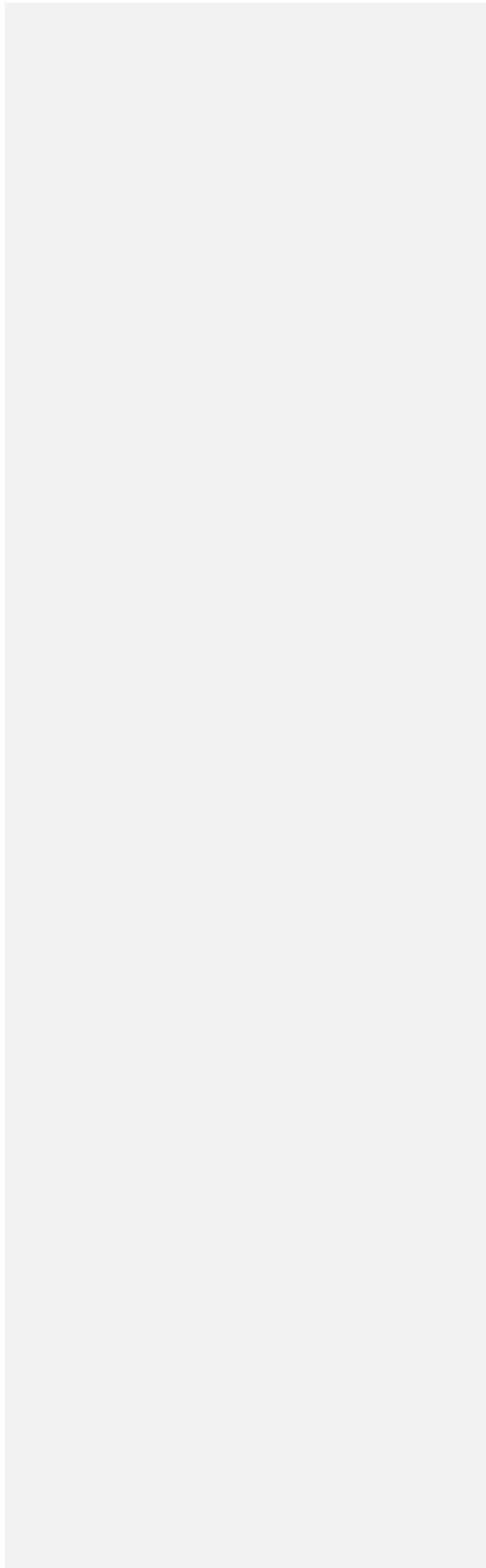
The Assistant Director Growth & Regeneration shall refer applications under Paragraph 4(a) and 4(b) above to the Planning Committee for determination in the event that they consider that the application raises issues of considerable public interest.

#### **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**

Planning Appeals shall be reported to the Planning Committee and dealt with by the Assistant Director Growth & Regeneration and the Democratic Services in accordance with Council Policy.



**ANNEX 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 Assistant Directors, Growth & Regeneration/Partnerships/Assets/Operations & Leisure/Head of Environmental Health as appropriate to area of responsibility 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</p>



	1982.
3. Sunbeds (Regulations) Act 2010	<p>Powers under the following sections of the Sunbed (Regulations) Act 2010</p> <p>Section 2 – Duty to prevent sunbed use by children  Section 7 - Enforcement by local authorities  Section 8 – Obstruction etc. of authorised officers  Section 9 - Offences by bodies corporate  Schedule - Powers of entry etc.</p>
4. Licensing Act 2003	<p>All powers under the Licensing Act 2003 which can be delegated to an officer relating to</p> <p>(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</p>

5. Gambling Act 2005	<p>All powers under the Gambling Act are to be delegated to an officer relating to:</p> <ul style="list-style-type: none"> <li>(a) The setting of fees</li> <li>(b) The determination of applications for a premises licence</li> <li>(c) The determination of an application to vary a premises licence</li> <li>(d) The determination of an application for a transfer of a premises licence</li> <li>(e) The determination of the Pre-Instatement of a premises licence</li> <li>(f) The determination of an application for a provisional statement</li> <li>(g) The determination of a Notification of Charge of a premises licence</li> <li>(h) The determination of an application for a club gaming/club machine permit</li> <li>(i) The determination of all other notifications and permits under the Act</li> <li>(j) The determination of an application for the registration of a Non Commercial Society Lottery</li> <li>(k) Cancellation of licensed premises gaming machine permits</li> <li>(l) Consideration of temporary and occasional use Notices</li> <li>(m) To exercise the role of Licensing Authority as the Responsible Authority under Part 8 of the Act, and when otherwise necessary</li> </ul>
6. Sex Establishment Licences - (Local Government (Miscellaneous Provisions) Act 1982)	The Whole Act
7. Street trading consent (except the fixing of fees for consents and the designation of consent or prohibited streets) (Local Government (Miscellaneous Provisions) Act 1982)	The Whole Act
8. Zoo Premises - (Zoo Licensing Act 1981)	The Whole Act
9. Riding Establishments - (Riding Establishments Acts 1964, 1970)	The Whole Act
10. Breeding of Dogs - (Breeding of Dogs Act 1973)	The Whole Act
11. House to House Collections - (House to House Collections Act 1939)	The Whole Act
12. Dangerous Wild Animals - (Dangerous Wild Animals Act 1976)	The Whole Act

13. Scrap Metal Dealers - (Scrap Metal Dealers Act 1964)	The Whole Act
14. Pets Shops Act 1951	The Whole Act
15. Motor Salvage Operators – (The Motor Salvage Operators Regulations 2002 and Vehicle (Crime) Act 2001	To accept and determine applications for registration as a Motor Salvage Operator
16. Acupuncture, tattooing, Ear-Piercing, and Electrolysis – (Local Government Miscellaneous Provisions) Act 1982 as amended by The Local Government Act 2003	To accept and determine applications for registrations as for Acupuncture, Tattooing, Ear-Piercing and Electrolysis
17. Public Health Act 1936	<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 &amp; 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>

18. Public Health Act 1961	<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>
19. Public Health (Control Of Disease) Act 1984	<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>
20. Provisions of the Public Health (Infectious Disease) Regulations 1968, 1974 and 1976 and subsequent regulations made.	The Whole Acts
21. Prevention of Damage by Pests Act 1949	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.
22. Building Act 1984	<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>
23. Refuse Disposal (Amenity ) Act 1978	The Whole Act
24. Performing Animals (Regulation) Act 1925	The Whole Act
25. Food Safety Act 1990	The Whole Act
26. Health and Safety Legislation	<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>
27. Public Health Act 1961 – Section 73	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

	<p>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>
28. Petroleum (Regulation) Acts 1928 and 1936	Authority to act on behalf of the Council in respect of the provisions of the Petroleum (Regulation) Acts 1928 and 1936.
29. Petroleum (Consolidation) Act 1928	Sections 1 & 2 - Authority to issue or refuse licences, with appropriate conditions for the keeping of petroleum spirit.
30. Petroleum (Transfer of Licences) Act 1936	Authority to transfer licences for the keeping of petroleum spirit, by endorsement of the licence or otherwise.
31. Sunday Trading Act 1994	The Whole Act
32. Safety of Sports Grounds Act 1975	The Whole Act
33. Hypnotism Act 1952	The Whole Act
34. Animal Welfare Legislation	<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  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>
35. Water Act 1989, Water Industry Act 1991	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.

36. Caravan Sites & Control Of Development Act 1960	The Whole Act
37. Scrap Metal Dealers Act 1964	(i) The powers and duties of the Council under Section 3 regarding the issue of Exemption Orders (where no special considerations arise).  (ii) Authorisation to enter land and ascertain if the premises are being used contrary to the Scrap Metal Dealers Act 1964.
38. Control of Asbestos Regulations 2006	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.
39. Environmental Protection Act 1990	The powers and duties of the Council under Parts I, II, IIa, III, IV, VIII, IX of the Environmental Protection Act 1990.  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.  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.  Compliance with the Council's Duty of Care in respect of waste (Section 34).  Compliance with the Council's Duty to keep land and highways clear of litter etc. (Section 89).  Compliance with the Council's duties under section 45, 46 and 48 in respect of collection and disposal of household waste.
40. Food & Environment Protection Act 1985 (Part III) and the Control of Pesticides Regulations 1986	To enforce relevant provisions of the above legislation.

41. 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 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.
42. Dangerous Dogs Act 1991	The Whole Act.
43. 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.
44. Anti Social Behaviour, Crime and Policing Act 2014	All sections and powers within the Act which are relevant to Local Authorities with effect from 1 October 2014.
45. Control of Pollution Act 1974	Parts III and V of the Act
46. Clean Air Act 1993	The Whole Act
47. Noise Act 1996	The Whole Act
48. Transport Act 1968	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.
49. 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 Animal Health Act 2002 Animal Welfare Act 2006	As applicable to Borough Council



<p>50. Company Law</p> <p>Companies Act 1985 &amp; 2006  Companies Consolidation (Consequential Provisions) Act 1985  Business Names Act 1985  Insolvency Act 1986  Company Directors Disqualification Act 1986</p>	<p>As applicable to Borough Council</p>
<p>51. Consumer Credit</p> <p>Administration of Justice Act 1970  Consumer Credit Act 1974 &amp; 2006  Law of Property (Miscellaneous Provisions) Act 1989</p>	
<p>52. Consumer Protection</p> <p>Consumer Protection Act 1987  Motor Vehicles (Safety Equipment for Children) Act 1991</p>	
<p>53. Control of Pollution</p> <p>Control of Pollution Act 1974  Environmental Protection Act 1990  Clean Air Act 1993</p>	
<p>54. 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>55. 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 Package Tours Regulations 1992  Fireworks Act 2003  Fireworks Regulations 2004  Firework (Safety) (amendment) Regulations 2004</p>	

Manufacture and storage of Explosive Regulations 2005	
56. Food and Environmental Protection  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)	As applicable to Borough Council
57. Hallmarking Act 1973	
58. Health and Safety at Work etc Act 1974	
59. Insurance Brokers (Registration) Act 1977 Insurance Companies Act 1982	
60. Medicines Act 1968	
61. Other Enforcement Legislation  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 Trading Representations (Disabled Persons) Act 1972 Employment Agencies Act 1973	
62. Road Traffic  Vehicles (Excise) Act 1971 Road Traffic (Foreign Vehicles) Act 1972 Road Traffic (Consequential Provisions) Act 1988 Road Traffic Act 1988	As applicable to Borough Council

Road Traffic Offenders Act 1988 Road Traffic Act 1991	
63. Telecommunications  Telecommunications Act 1984	
64. Trade Descriptions  Trade Descriptions Act 1968 Property Misdescriptions Act 1991	
65. Unsolicited Goods and Services  Unsolicited Goods and Services Act 1971 Unsolicited Goods and Services (Amendment) Act 1975	
66. Video Recordings  Video Recording Act 1984 Video Recordings Act 1993	
67. Weights and Measures  Weights and Measures etc. Act 1976 Merchant Shipping Act 1979 Weights and Measures Act 1985	
68. Nationality, Immigration and Asylum Act 2002	Performance and Management of Citizenship Ceremonies
69. Refuse Disposal (Amenity) Act 1987 and the Vehicle Excise and Registration Act 1994	To authorise the removal of untaxed vehicles on an adopted highway under the devolved powers scheme of the Driver and Vehicle Licensing Agency.
70. Pollution Prevention Control Act 1999	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.
71. Clean Neighbourhoods and Environment Act 2005	Authority to <u>authorise carry out the relevant functions as applicable to a Borough Council in authorising</u> suitable officers for the purpose of exercising a statutory function with respect to Environmental Health, Community Safety,

	<p>Licensing and Registration.</p> <p><del>The Fouling of Land by Dogs (Tamworth Borough Council) Order 2012</del></p> <p><del>The Dogs on Lead By Direction (Tamworth Borough Council) Order 2012</del></p> <p><del>The Dogs on Lead at All Times (Tamworth Borough Council) Order 2012</del></p> <p><del>The Dog Exclusion (Tamworth Borough Council) Order 2012</del></p>
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	Mandatory Grants to help with disabled facilities.
74. The Regulatory Reform (Housing Assistance) Order 2002	<p>(i) Policy for grants etc. for renewal of Private Sector Housing and Provision of <u>mandatory and</u> discretionary disabled facilities grants.</p> <p><del>DFG's and HRA grants are carried out by property services who are under the Corporate Director Growth, Assets and Environment. Private Sector Housing undertake empty property grants so will need these delegations but they must also be put in appendix 3.</del></p>
75. Byelaws for Pleasure Grounds, Public Walks and Open Spaces 2004	Full Byelaws
76. Byelaws for Good Rule and Government 2004	Full Byelaws

## ANNEX 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	Assistant Director Operations & Leisure or authorised officer
1.	Town Hall Bookings of the Town Hall	<del>Authorised officer</del> <u>Customer Experience Operations Manager</u>
2.	To determine appeals following the refusal of a booking of the Town Hall. Opening Hours	Assistant Director People
3.	Fixing of opening and closing dates of public buildings within control of the Council including bank and public holiday periods.	Assistant Director Assets in consultation with relevant Assistant Directors
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.	Assistant Director Growth & Regeneration
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.	Assistant Directors, Operations & Leisure/Assets
6.	General management of and authority to authorise bookings for non core activities.	Assistant Directors, Operations & Leisure/Assets
	Concessionary Charges for Public Buildings/Parks	Assistant Directors, Operations & Leisure/Assets
7.	Determination of applications for concessionary charges for use of public buildings/parks within control of Council. Within established policy.	Assistant Directors, Operations & Leisure/Assets

8.	<p><u>Localism Act 2011 – section 30 / 31 dispensation</u></p> <p><u>To determine whether to grant a member or members a dispensation relieving the member(s) from all or any restrictions in Procedure Rule 4.21.6. A written request must be made by the member and the Monitoring Officer may only grant such a dispensation in the following circumstances :</u></p> <ul style="list-style-type: none"> <li>• <u>without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.</u></li> <li>• <u>without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.</u></li> <li>• <u>granting the dispensation is in the interests of persons living in the authority's area.</u></li> <li>• <u>without the dispensation each member of the Council's Executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's Executive, or</u></li> <li>• <u>it is otherwise appropriate to grant a dispensation.</u></li> </ul> <p><u>Any dispensation must specify the period for which it is to have effect and can be for no longer than 4 years.</u></p>	<p><u>Monitoring Officer</u></p>

8.	<ul style="list-style-type: none"> <li>• Corporate Complaints</li> <li>• Council Halls and meeting rooms</li> <li>• Hire of Civic Accommodation</li> <li>• Compensation claims associated with complaints made via Tell Us Scheme</li> <li>• Telecommunications Act</li> <li>• Town hall, Carnegie Centre and Phil Dix Centre</li> <li>• Determine the appeals following the refusal of a booking of venue</li> <li>• Opening hours to the public</li> <li>• Access to buildings</li> <li>• Letting of public buildings</li> <li>• Charges applied to hire of public buildings etc</li> <li>• Provide services on behalf of Staffordshire County Council in relation to the administration of - Blue Badges, appointee ships, Concessionary travel, and other services</li> </ul>	Executive Director Organisation & Assistant Director People
9.	<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>	Assistant Director Partnerships

## ANNEX 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 Authorised Officer
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 Authorised Officer

#### 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 Committee 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 & 249	Keeping of Roll of Honorary Freemen/Women and Aldermen/Women.	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 <del>Head of Legal &amp; Democratic Services</del>
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	Chief Executive
35	Returning Officer, Acting Returning Officer and Deputy Acting Returning Officer for Parliamentary, European, County, Borough & Parish Elections and National Referenda.	Chief Executive
81	Receipt & Deposit of Election Expenses.	Senior Elections Officer
82	Declarations as to Expenses.	Senior Elections Officer
Schedule 2 Rule 50 Local Elections (Principal Areas)(England & Wales) Rules 2006	Receipt of Notice of Persons Elected.	Senior Elections Officer
Schedule 2 Rules 52 & 54 Local Election (Principal Areas) (England & Wales) Rules 2006	Receipt, retention and disposal of election documents.	Senior Elections Officer

**3. Head of Legal & Democratic Services  
In the Local Government Act 1972:**

Section	Function	Officer
229(5)	Certification of photographic copies of documents in legal proceedings.	<u>Legal Admin &amp; Democratic Services Manager</u> <u>Head of Legal &amp; Democratic Services</u>
236(9)	Sending of copies of Bye-Laws as required	<u>Legal Admin &amp; Democratic Services Manager</u> <u>Head of Legal &amp; Democratic Services</u>
238	Certification of Bye-Laws.	<u>Legal Admin &amp; Democratic Services Manager</u> <u>Head of Legal &amp; Democratic Services</u>
Schedule 14 Para. 25(7)	Certification of Resolution for Legal Proceedings.	<u>Legal Admin &amp; Democratic Services Manager</u> <u>Head of Legal &amp; Democratic Services</u>

**In the Local Land Charges Act 1975:**

Section	Function	Officer
The Whole Act	To act on Local Land Charges Register.	<u>Executive Director</u> <u>Organisation</u> <u>Head of Legal &amp;</u> <u>Democratic Services</u>

4. **EXECUTIVE DIRECTOR FINANCE**

(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 26<sup>th</sup> 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 Executive Director ~~Finance Corporate Services~~ 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 Executive Director ~~Finance Corporate Services~~ 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 Finance
146(1)(a) & (b)	Declaration and Certificates with regard to securities.	Executive Director Finance
151	Administration of the Council's financial affairs.	Executive Director Finance (In the absence of Executive Director Finance - Assistant Director Finance

**In the Local Government Finance Act 1988:**

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

5. **Public Health**

(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 6th 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.	Assistant Director Growth & Regeneration
84	Cleansing of disinfection of filthy or verminous articles.	Assistant Director Growth & Regeneration
85	Cleansing of verminous persons and their clothing.	Assistant Director Growth & Regeneration
343(1)	Definition – authorisation of officers of the local authority.	Assistant Director Growth & Regeneration

**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.	Assistant Director Growth & Regeneration
37	Prohibition of sale of verminous articles.	Assistant Director Growth & Regeneration

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

Section	Function	Officer
11	Cases of notifiable disease and food poisoning to be reported.	Head of Environmental Health/Assistant Director Growth & Regeneration
18	Information to be furnished by occupier in case of notifiable disease or food poisoning.	Head of Environmental Health/Assistant Director Growth & Regeneration
20	Stopping work to prevent spread of disease.	Head of Environmental Health/Assistant Director Growth & Regeneration
21	Exclusion from school.	Head of Environmental Health/Assistant Director Growth & Regeneration
22	Exclusion of children from places of entertainment or assembly.	Head of Environmental Health/Assistant Director Growth & Regeneration
24	Infected articles.	Assistant Director Growth & Regeneration
29	Letting of house or room.	Assistant Director Growth & Regeneration
31	Disinfection of premises.	Assistant Director Growth & Regeneration
32	Removal of person from infected house.	Assistant Director Growth & Regeneration
59	Authentication of documents.	<del>Legal Admin &amp; Democratic Services Manager</del> <del>Head of Legal and Democratic services</del>

**In the Rent Act 1977:**

Section	Function	Officer
The Whole Act	Exercise of functions under Part IV.	Executive Director Communities

**In the Small Holdings & Allotments Act 1908:**

Section	Function	Officer
28	Making of rules for the regulation of allotments.	Executive Director Communities
30	Recovery of rent and possession of allotments.	Executive Director Communities
1	Determination of tenancies of allotments.	Executive Director Communities

**In the Housing Act 1957:**

Section	Function	Officer
Part V	Service of Notices to Quit where rent is more than four weeks in arrears.	Assistant Director Neighbourhoods

**In the Caravan Sites Act 1968:**

Section	Function	Officer
2	Service of Notices to Quit.	Assistant Director Partnerships



6. OTHER STATUTORY APPOINTMENTS

In the Local Government & Housing Act 1989:

Section	Function	Designation	Deputy
4	Head of Paid Service	Executive Director Organisation	Chief Executive
5	Monitoring Officer	Head of Audit & Governance	<del>Deputy Monitoring Officer/s</del> <del>Head of Legal &amp; Democratic Services</del>

In the Representation of the People Acts 1983 & 1985:

Section	Function	Designation	Deputy
35	Returning Officer	Chief Executive	Head of Audit & Governance <u>and</u> <u>Election Services</u> <u>Manager</u>

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	Assistant Director Partnerships

b) In the Localism Act 2011

Section	Function	Designation	Administrator
Part 5 Chapter 3	Assets of Community Value - processes as per the policy	<del>Executive Director Communities</del> <del>Head of Legal &amp; Democratic Services</del> Appeals in relation to the above Chief Executive	Chief Executive
Part 5 Chapter 2	Community Right to Challenge – processes as per the policy	<del>Executive Director Communities</del> <del>Delegation to Head of Legal &amp; Democratic Services</del> Appeals in relation to the above Chief Executive	Chief Executive
	Town & Country Planning (Brownfields Land Register) Regulations 2007	<del>Assistant Director Growth &amp; Regeneration</del>	Assistant Director Growth & Regeneration

<u>Sec 38 (1)</u>	<u>Prepare Pay Policy Statement</u>	<u>Head of Paid Service</u>	<u>Assistant Director People</u>
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Part 4 - Rules of Procedure

**Rules of Procedure**

**Council Procedure Rules**

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## 4.1 ANNUAL MEETING OF THE COUNCIL

### 4.1.1 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, every fourth year~~ the annual meeting will take place in March, April or May.

The annual meeting will elect:

1. the Mayor of Council;
2. the Deputy Mayor of Council;
3. the Leader.;

The annual meeting may immediately precede the first ordinary meeting of Council.

### 4.2 ~~Ordinary meetings~~ORDINARY MEETINGS OF COUNCIL

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 ~~a~~Annual meeting, and may immediately follow the annual meeting.

The First Ordinary Meeting will:

- 4.2.1 receive any announcements from the Mayor, Leader, Members of the Executive or the Chief Executive;
- 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 receive a report from the Leader of the Council on the urgent Executive decisions taken under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012~~3~~;
- 4.2.7 decide which committees to establish for the municipal year;
- 4.2.8 decide the size and terms of reference for those committees;
- 4.2.9 decide the allocation of the position of Chairs for those committees
- 4.2.10 decide the allocation of seats to political groups in accordance with the political balance rules;
- 4.2.11 receive nominations of councillors to serve on each committee;
- 4.2.12 receive the calendar of meetings for the forthcoming municipal year; and

- 4.2.13 receive such other matters which the Council receives at other ordinary meetings, as set out below.

Ordinary meetings will:

- 4.2.14 ~~receive nominations to~~ confer the title of Honorary Alderman or Alderwoman on past members who have completed at least three consecutive terms as a councillor of the Borough of Tamworth;
- 4.2.15 elect a person to preside if the Mayor and Deputy Mayor are not present;
- 4.2.16 receive petitions presented by members of the Council and determine the action to be taken in response to each petition, as provided in the Petition Scheme;
- 4.2.17 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;
- 4.2.18 approve the minutes of the last meeting;
- 4.2.19 receive any declarations of interest from members;
- 4.2.20 receive any announcements from the Chair, Leader, members of the Executive or the Chief Executive;
- 4.2.21 receive any communications which the Mayor, the Leader, or the Chief Executive 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;
- 4.2.22 the Leader will inform Council of any changes in the membership of the Executive and champions and both the Leader and the Leader of the Opposition in exceptional circumstances will inform Council of any changes in the membership of Committees;
- 4.2.23 deal with any business from the last Council meeting;
- 4.2.24 consider items of business referred by the Chief Executive or another authorised officer;
- 4.2.25 receive authorised reports from the Executive and receive questions and answers on any of those reports;
- 4.2.26 consider matters referred by overview and scrutiny and any referrals from committees or sub committees;
- 4.2.27 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.2.28 consider motions;

4.2.29 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 and receive questions and answers on any of those reports, prior to~~for~~ debate; and

4.2.30 consider annual reports from the Council's Local Authority Trading Company.

#### 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 by the Council

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.

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, Audit & Governance Committee, Executive, Planning Committee and Licensing Committees under the Licensing Act 2003.

Where a substitute has been appointed as above, notice of the attendance at a relevant committee meeting of the substitute is to be given to the Mayor, Chief Executive and Monitoring Officer at least two hours prior to the start of the meeting.

##### 4.4.2 ~~Number~~Substitution by notice

Irrespective of whether or not a substitute has been allocated in accordance with 4.4.1, a Group Leader or Deputy Group Leader may notify the Chief Executive no later than 5.00 p.m. on the working day before the commencement of the meeting of an intended substitution. The following chart sets out the last day for submission of the substitution.

<u>Day of Meeting</u>	
<u>Monday</u>	<u>5pm the previous Friday</u>
<u>Tuesday</u>	<u>5pm the previous Monday</u>
<u>Wednesday</u>	<u>5pm the previous Tuesday</u>

<del>Thursday</del>	<del>5pm the previous Wednesday</del>
<del>Friday</del>	<del>5pm the previous Thursday</del>

~~This rule will be strictly applied to ensure fairness and equality for all notifications of substitution.~~

~~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 Appointments & Staffing Committee, Audit & Governance Committee, Cabinet, Planning Committee and Licensing 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 4.4.1 or 4.4.2 ~~4 below~~ <sup>above</sup> is the Chair of the relevant Committee, then the Vice-Chair shall preside, or if absent, the first item of business shall be the appointment of a Chair at the meeting.

**4.4.4 Substitution**

Substitute members may attend meetings in that capacity only:

- i. to take the place of the ordinary member for whom they are the ~~designated~~ substitute and for that meeting only;
- ii. where the ordinary member will be absent for the whole meeting;
- ~~iii. after the respective Group Leader or Deputy Leader has notified the Chief Executive no later than 5.00 p.m. on the working day before the commencement of the meeting of the intended substitution. The following chart sets out the last day for submission of the substitution.~~

<del>Day of Meeting</del>	
<del>Monday</del>	<del>5pm the previous Friday</del>
<del>Tuesday</del>	<del>5pm the previous Monday</del>
<del>Wednesday</del>	<del>5pm the previous Tuesday</del>
<del>Thursday</del>	<del>5pm the previous Wednesday</del>
<del>Friday</del>	<del>5pm the previous Thursday</del>

~~This rule will be strictly applied to ensure fairness and equality for all notifications of substitution.~~

- ~~iiiv.~~ in the event that the permanent Member attends the meeting after a notification of substitution has been received, the permanent ~~m~~Member would be required to leave.

The Substitution scheme shall not apply to ~~Appointments & Staffing Committee, Audit & Governance Committee, Executive, Cabinet Grants Sub-committee, Licensing Committee and Planning Committee.~~

**4.5 TIME AND PLACE OF MEETINGS**



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

#### 4.6 **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 to every member of the Council. 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.

#### 4.7 **CHAIR OF MEETING**

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

#### 4.8 **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.

#### 4.9 **DURATION OF MEETING**

##### 4.9.1 **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 4.13 is passed.

##### 4.9.2 **Motions and recommendations not dealt with**

Subject to 4.9.1 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.

##### 4.9.3 **Recorded vote**

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

##### 4.9.4 **Motions which may be moved**

During the process set out in Rules 4.9.1 – 4.9.2 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.

##### 4.9.5 **Close of the meeting**

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

4.10 **QUESTIONS BY THE PUBLIC**

4.10.1 **General Questions on notice at Ordinary Meetings of the Council**

Subject to Rule 4.10.3, a member of the public 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 member of the public may ask more than two questions at any meeting of the Council.

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

~~Members of the public may ask questions of members of the executive at ordinary meetings of the Council.~~

4.10.2 **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

4.10.3 **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. The following chart sets out the last day for submission of the question. 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.

Day of Meeting	
Monday	5pm the previous Wednesday
Tuesday	5pm the previous Thursday
Wednesday	5pm the previous Friday
Thursday	5pm the previous Monday
Friday	5pm the previous Tuesday

This rule will be strictly applied to ensure fairness and equality for all questioners.

4.10.4 **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.

4.10.5 **Scope of questions**

The Chief Executive may reject a question if it:

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

The questioner will be advised of the reasons for rejection.

#### 4.10.6 **Process in relation to questions**

The Chief Executive will immediately send a copy of the accepted question to the member to whom it is to be put.

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

#### 4.10.7 **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. or indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### 4.10.8 **Written answers**

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

These answers will:

- Be published on the Council website as soon as practicable after the meeting, but in any event before the next ordinary meeting, and
- be attached to the minutes of that meeting.

#### 4.10.9 **Supplementary Questions**

A question asked under Rule 4.10.1 allows the questioner to ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. Rule 4.10.5 applies to the supplementary question.

#### 4.10.10 **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.

#### 4.10.11 **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.

#### 4.10.12 **Record of Questions**

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

### 4.11 **QUESTIONS BY MEMBERS**

#### 4.11.1 **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.

#### 4.11.2 **Questions on notice at Ordinary Meetings of the Council**

Subject to Rule 4.11.3, 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 member 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.

#### 4.11.3 **Notice of questions**

A member may only ask a question under Rule 4.11.2 if

- (a) notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 5.00 p.m. two clear working days before the day of the meeting. The following chart sets out the last day for submission of the question. Each question must give the name of the member of the Council to whom it is to be put ; or

- (b) 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.

Day of Meeting	
Monday	5pm the previous Wednesday
Tuesday	5pm the previous Thursday
Wednesday	5pm the previous Friday
Thursday	5pm the previous Monday
Friday	5pm the previous Tuesday

This rule will be strictly applied to ensure fairness and equality for all questioners.

#### 4.11.4 **Scope of questions**

The Chief Executive may reject a question if it:

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

#### 4.11.5 **Response**

An answer may take the form of:

- a) a direct oral answer;
- b) a reference to a publication where the desired information is in a publication of the Council or other published work; or
- c) a written answer circulated later to the member where the reply cannot conveniently be given orally and in the circumstances described in rule 4.11.6.

#### 4.11.6 **Written answers**

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

These answers will:

- Be published on the Council website as soon as practicable after the meeting, but in any event before the next ordinary meeting, and
- be attached to the minutes of that meeting.

#### 4.11.7 **Supplementary question**

A member asking a question under Rule 4.11.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. Rule 4.11.4 applies to the supplementary question.

#### 4.11.8 **Record of Questions**

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

### 4.12 **MOTIONS ON NOTICE**

#### 4.12.1 **Notice**

Except for motions which can be moved without notice under Rule 4.13, 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.

#### 4.12.2 **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.

#### 4.12.3 **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.

### 4.13 **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chair 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 an item to an appropriate body or individual;
- (e) to appoint a committee or member to deal with any matter 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 4.9.1 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 4.21.3 or to exclude them from the meeting under Rule 4.21.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

#### 4.14 RULES OF DEBATE

##### 4.14.1 **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.

##### 4.14.2 **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.

##### 4.14.3 **Seconders' speech**

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

##### 4.14.4 **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.

##### 4.14.5 **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.

#### 4.14.6 **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 ~~(b)~~ to ~~(d)~~ 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 Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 4.14.7 **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.

#### 4.14.8 **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.

#### 4.14.9 **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.

#### 4.14.10 **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 4.21.3 or to exclude them from the meeting under Rule 4.21.4.

#### 4.14.11 **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.

#### 4.14.12 **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.

#### 4.14.13 **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.

#### 4.14.14 **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.

### 4.15 **STATE OF TAMWORTH DEBATE**

#### 4.15.1 **Calling of debate**

The Leader will call a state of Tamworth debate annually in March in a form to be agreed with the Mayor.

#### 4.15.2 **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.

#### 4.15.3 **Chairing of debate**

The debate will be chaired by the Mayor.

#### 4.15.4 **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.

#### 4.16 PREVIOUS DECISIONS AND MOTIONS

##### 4.16.1 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.

##### 4.16.2 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.

#### 4.17 VOTING

##### 4.17.1 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.

##### 4.17.2 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.

##### 4.17.3 Show of hands

~~Unless this constitution provides otherwise, or a named vote is demanded under 4.17.4 or 14.7.5, the Mayor will take the vote by show of hands, or of there is no dissent, by the affirmation of the meeting. Immediately following a vote taken in public, at a meeting of full Council, which is not unanimous by virtue of votes for and against the motion (not simply by abstention) the names of those members who have voted will be taken down in writing and recorded in the minutes of the meeting.~~

##### 4.17.4 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.

##### 4.17.5 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.

#### 4.17.6 **Voting on appointments**

If there are more than two people nominated for any position, including Chair when relevant, 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. In a situation where there is an equality of votes for two people the decision on the appointment will be made by the flip of a coin.

#### 4.17.7 **Recorded Votes at Council Budget Decision Meetings**

A recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who cast a vote for the motion/ amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2001, it cannot be suspended.

### 4.18 **MINUTES**

#### 4.18.1 **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.

#### 4.18.2 **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.

#### 4.18.3 **Form of minutes**

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

### 4.19 **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.

### 4.20 **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Schedule 2 Access to Information Procedure Rules in Part 4 of this Constitution or Rule 4.22 (Disturbance by Public).

#### 4.21 MEMBERS' CONDUCT

##### 4.21.1 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.

##### 4.21.2 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.

##### 4.21.3 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.

##### 4.21.4 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.

##### 4.21.5 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.

##### 4.21.6 Disclosable pecuniary interests

A disclosable pecuniary interest is defined by section 30 of the Localism Act 2011.

A member with a disclosable pecuniary interest is prohibited from:-

- participating in any discussion of any matter at a meeting or
- participating in any vote or further vote taken on the matter at the meeting

A member so prohibited shall be excluded from that part of the meeting unless granted a dispensation by the Monitoring Officer.

~~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~~

#### Commented [A5]:

The power to grant a dispensation in respect of pecuniary interest can be removed from the Audit and Governance Committee and delegated to the Monitoring Officer and either whomever else the council determines or to whom the MO wishes to sub-delegate (i.e. in the MO's absence). This amendment must be approved by the Council and if it is, the Scheme of Delegation and this part of the Constitution will need to be amended accordingly.

~~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.

#### 4.22 **DISTURBANCE BY PUBLIC**

##### 4.22.1 **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.

##### 4.22.2 **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.

#### 4.23 **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

##### 4.23.1 **Suspension**

All of these Council Rules of Procedure except Rule 4.17.6 and 4.18.2 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.

##### 4.23.2 **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.

#### 4.24 **APPLICATION TO REGULATORY COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council and Regulatory Committees. The rules which apply to meetings of the Executive are identified within Schedule 4 - Executive Procedure Rules The rules which apply to meetings of non regulatory Committees and Sub-Committees are identified within Schedule 1 Non Regulatory Committee Procedure Rules.

## SCHEDULE 1 – NON REGULATORY COMMITTEE PROCEDURE RULES

### 1 APPLICATION

These Rules shall apply to non regulatory meetings of Committees and Sub Committees not being full Council, Regulatory Committee Meetings or meetings of the Executive.

### 2 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

#### 2.1 Allocation by the Council

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

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.

Where a substitute has been appointed as above, notice of the attendance at a relevant committee meeting of the substitute is to be given to the Mayor, Chief Executive and Monitoring Officer at least two hours prior to the start of the meeting.

#### 2.2 ~~Number~~ Substitution by notice

Irrespective of whether or not a substitute has been allocated in accordance with 2.1, a Group Leader or Deputy Group Leader may notify the Chief Executive no later than 5.00 p.m. on the working day before the commencement of the meeting of an intended substitution. The following chart sets out the last day for submission of the substitution.

<u>Day of Meeting</u>	
<u>Monday</u>	<u>5pm the previous Friday</u>
<u>Tuesday</u>	<u>5pm the previous Monday</u>
<u>Wednesday</u>	<u>5pm the previous Tuesday</u>
<u>Thursday</u>	<u>5pm the previous Wednesday</u>
<u>Friday</u>	<u>5pm the previous Thursday</u>

This rule will be strictly applied to ensure fairness and equality for all notifications of substitution. For each non regulatory Committee or Sub-Committee, the Council may if it decides appoint one substitute in respect of each political group per Committee or Sub-Committee.

#### 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 2.1 or 2.24 is the Chair of the relevant Committee, then the Vice-Chair shall preside, or if absent, the first item of business shall be the appointment of a Chair 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 the respective Group Leader or Deputy Leader has notified the Chief Executive no later than 5.00 p.m. on the working day before the commencement of the meeting of the intended substitution. The following chart sets out the last day for submission of the substitution.~~

Day of Meeting	
Monday	<del>5pm the previous Friday</del>
Tuesday	<del>5pm the previous Monday</del>
Wednesday	<del>5pm the previous Tuesday</del>
Thursday	<del>5pm the previous Wednesday</del>
Friday	<del>5pm the previous Thursday</del>

~~This rule will be strictly applied to ensure fairness and equality for all notifications of substitution.~~

2.4.42.4.3 in the event that the permanent member attends the meeting after a notification of substitution has been received, the permanent member would be required to leave.

The Substitution scheme shall apply to the Audit & Governance Committee, the Appointments & Staffing Committee, the Infrastructure, Safety and Growth Scrutiny Committee, the Healthier and Wellbeing Scrutiny Committee, the Corporate Scrutiny Committee, Statutory Officers Conduct Committee, Chief Officer Conduct Committee and Nominations Committee.

### 3 TIME AND PLACE OF MEETINGS

The time and place of non regulatory meetings can be determined by the Committee Chair or the Chief Executive and notified in the summons. Regulatory Committees will be determined by the Chief Executive.

### 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 (three days in the case of a Licensing Sub Committee) before a meeting, the Chief Executive will send a summons signed by him or her to every member of the Committee or Sub-Committee. 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 CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chair. If the Chair is not present the Vice-Chair shall act as Chair. If both the Chair and Vice-Chair are absent the Committee shall appoint a Chair for that meeting as per rule 9.1.1.

### 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 Chair 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 Chair. 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., except for Regulatory Committee meetings, a bell will be rung and the member speaking must immediately sit down. The Chair must interrupt the meeting and call for any motion under rule 9. If no motions are moved under rule 9 then the Chair calls for a vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion.

### **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 Chair 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 Chair who will rule on whether or not the motions can be considered.

#### 8.4 Motion to remove the Chair

A motion to remove the Chair can only be moved by giving written notice. A written notice of a motion to remove the Chair 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 Chair of the meeting at which the motion is moved where the existing Chair or Deputy Chair 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 to carry out a task as designated by the Committee arising from an item on the summons for the meeting;
- 9.1.6 to receive reports or adoption of recommendations of Members, Sub-Committees, officers and Outside Bodies 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.

## 10 RULES OF DEBATE

### 10.1 No speeches until motion seconded

Questions and speeches may be made on the subject matter before and after a mover has moved a proposal and it has been seconded.

### 10.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chair 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 ~~does not require to~~ may reserve their speech until later in the debate.

### 10.4 Content and length of speeches

Speeches must be directed to the question or item under discussion or to a personal explanation or point of order. There is no time limit on speeches (subject to rule 17).

### 10.5 When a member may speak again

A member may speak as many times as he/she considers appropriate, subject to rule 17.

### 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 (10.6.2) to (10.6.4) 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 Chair 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 17.2 or to exclude them from the meeting under Rule 17.3.

#### **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 Chair 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 Chair 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 Chair 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 Chair 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 Chair 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 Chair 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 Chair's casting vote

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

## 12.3 Show of hands

Unless a recorded vote is demanded under Rule 12.4, the Chair 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. In a situation where there is an equality of votes for two people the decision on the appointment will be made by the flip of a coin.

# 13 MINUTES

## 13.1 Signing the minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair 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 Chair put them.

# 14 DISTURBANCE BY PUBLIC

## 14.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair 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 Chair 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 Schedule 2 Access to Information Rules in Part 4 of this Constitution or Rule 14.1 (Disturbance by Public).

## 17 MEMBERS' CONDUCT

### 17.1 Chair standing

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

### 17.2 Member not to be heard further

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

### 17.3 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chair 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.

### 17.4 General disturbance

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

### 17.5 Disclosable pecuniary interests

A disclosable pecuniary interest is defined by section 30 of the Localism Act 2011.

A member with a disclosable pecuniary interest is prohibited from:-

- participating in any discussion of any matter at a meeting and
- participating in any vote or further vote taken on the matter at the meeting

A member so prohibited shall be excluded from that part of the meeting unless granted a dispensation by the Monitoring Officer.

~~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 COMMITTEE PROCEDURE RULES**

**18.1 Suspension**

All of these Committee Rules of Procedure except Rules 12.6 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Committee are present. Suspension can only be for the duration of the meeting.

**18.2 Amendment**

Any motion to add to, vary or revoke these Committee 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 94GA of the Local Government Act 2000, The Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012 and The Openness of Local Government Bodies Regulation 2014.

### 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 3-4 to the exceptions in these rules, Rule 4.20, Rule 4.23 of the Council's Procedure Rules and Rules 14 and 16 of Schedule 1 – non Regulatory Committee Procedure 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 and publishing it on the Council's website.

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

- 5.1 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 and the Council's website.
- 5.2 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 when the item is added to the agenda.
- 5.3 Where the meeting is convened at shorter notice a copy of the agenda and associated reports will be available for inspection when the meeting is convened.
- 5.4 If the Chief Executive thinks it fit there may be excluded from any report provided the whole or any part of the report which relates only to matters during which in the Chief Executive opinion the meeting is likely to be a private meeting.

### 6 SUPPLY OF COPIES

~~The Council will supply copies of:~~

- 6.1 Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting;

6.2 Subject to any 'Confidential Information' and/or 'Exempt Information' following a request by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council will supply to that person or newspaper;

6.2.1 a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meetings;

6.2.2 Each further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and

6.2.3 if the Chief Executive thinks fit in the case of any item a copy of any other documents supplied to Councillors in connection with the item.

## 7 ACCESS TO MINUTES ETC AFTER THE MEETING

As soon as reasonably practicable after any meeting of the ~~Cabinet~~Executive, or its Committees & Joint Committees at which an Executive Decision or delegated decision by an Officer, Monitoring Officer or person writing on their behalf has been made, shalland make available copies of the following for six years after the meeting.

7.1 the minutes of the meeting or records of decisions taken, together with details of any other options considered the reasons for the decision and the rejection of any other options, save for, any part of the minutes or record of proceedings when the meeting was not open to the public ~~or~~ which would disclose exempt or confidential information;

7.2 a record of any conflict of interest relating to the matter decided which is declared by any member or a note of any dispensation granted by the ~~Chief Executive~~Monitoring Officer Audit and Governance Committee;

7.3 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;

7.4 the agenda for the meeting; and

7.5 reports relating to items when the meeting was open to the public.

**Commented [A6]:** AC commented that this could not be a Chief Exec function but should be A&G or could be delegated to MO and amendments made to Scheme of Delegation etc

## 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, excluding those disclosing exempt or confidential information.

## 9 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 9.1 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.

### 9.2 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.

### 9.3 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.

### 9.4 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:

	<p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>
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	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:-</p> <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;</p> <p>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>

**10 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. The final decision as to whether or not public access should be refused to such a report rests with members.

## 11 DEFINITIONS

### 11.1 Executive Decisions

An Executive decision is any decision made or to be made in connection with the discharge of a function which is the responsibility of the Executive of the Council but does not include purely administrative decisions.

### 11.2 Key Decisions

A key decision is defined at Article 2.13.3 (C) (i) and (ii) above.

~~means any decision to spend or forego income or raise additional income which is significant having regard to the Council's budget for the service or function to which the decision relates. For the purposes of this paragraph the Council interprets as "significant" any decision to spend or forego income or raise additional income exceeding £100,000 in one financial year.~~

~~or~~

~~any decision that has a significant affect on two or more wards. For the purposes of this paragraph the Council interprets as "significant" any proposal which will make a substantial physical alteration to the appearance of the area of two or more wards, or any proposal which will substantially alter the level of a Council service given to people who live or work in the area.~~

### 11.3 Delegated Decision by an Officer

Is a decision which would otherwise have been taken by the Executive, the Council, or a Committee, sub Committee or joint Committee of the Council, but it has been delegated to a officer at the Council either

11.3.1 under a specific express authorisation; or

11.3.2 under a general authorisation to take such decisions and the effect or the decision is to;

11.3.3 grant a permission or licence; or

11.3.4 affect the rights of an individual; ~~or~~

~~11.3.5 award a contract or views expenditure which fulfils the definition a key decision~~

**Commented [A7]:** Comment from AC – this has been deleted as the award of a contract is not a key decision, it is the implementation of a key decision already made.

## 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 Executive 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 11.1 impracticable, the decision maker or decision making body will seek agreement from the Monitoring Officer and Chair of the relevant Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chair of the Overview and Scrutiny Committee, the Mayor and Monitoring Officer shall be asked for their agreement and, in their absence, his/her appointed Deputy's. 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 by the Executive 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;

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;

- (c) a list of the documents submitted to the decision taker for consideration in relation to the matter. and
- (d) The forward plan will be published at least 7 days before the start of the period covered.

14.2.4 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 Chair 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 Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor in conjunction with the Monitoring Officer will suffice, or, in their absence, the agreement of their Deputy's.

## **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 Chair, or the chair of the body making the decision 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 Chair 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 Executive reports on special urgency decisions

In any event the Leader will submit where required a report to the next meeting or the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17.4 The Leader of the Council is required to submit at least one report under paragraph 17.3 annually.

### 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.~~

Commented [A8]:

Arrangements for executive meetings relating to matters which are not key decisions are determined by finance and procurement regulations. Subsequent number altered following the deletion of clause 19.

#### 2019 NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

Members of the Executive or its committees will be entitled to receive five 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.

#### ~~21.20 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE WHERE EXEMPT ITEMS ARE ON THE AGENDA ("PRIVATE MEETINGS")~~

~~21.20.1~~ 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.

~~21.20.2~~ 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~~Chair agrees.

[21.320.3](#) 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 Chair, the notice will be served on all the members of that committee.

[21.420.4](#) 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 Chair of that committee or in his/her absence the vice Chair may attend that private meeting with the consent of the person presiding, though not speak unless those present agree.

[21.520.5](#) The Chief Executive, Head of the Paid Service, the Monitoring Officer and the Section 151 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.

## **2221 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **[22.421.1](#) 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.

### **[22.221.2](#) 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 Chair of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

### **[22.321.3](#) Record of individual decision**

As soon as reasonably practicable after any Executive decision has been taken by an individual Member or after a Key Decision has been taken by an officer he or she will instruct the Chief Executive/Monitoring Officer or person acting on their behalf to prepare a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any Executive Member and in respect of any declared conflict of interest, a note of dispensation granted by the Councils Chief Executive.

### **[22.421.4](#) Nature of rights**

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

### **[22.521.5](#) 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 Chair and/or the Chief Executive or ~~the Head of Legal & Democratic Services and~~ Monitoring Officer depending on the nature of the exempt information, for example staffing issues, licensing appeals and standards and ethics issues.

## **2322 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **23.422.1 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.

### **23.222.2 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.

### **23.322.3 Exceptions**

However, a document is not required to be available for inspection under Rule ~~223~~.1 or ~~223~~.2 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 4 (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.

### **23.422.4 Nature of Rights**

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

## **2423 OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS**

~~24.123~~.1 Within 10 working 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:

~~24.1.123~~.1.1 any business that has been transacted at a meeting of a decision-making body of the Council;

~~24.1.223~~.1.2 any decision that has been made by an individual Executive Member in accordance with Executive arrangements; or

~~24.1.323~~.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) any 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 Chair of the relevant overview and scrutiny committee. If there is no such Chair, 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 Chair 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 Chair 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 Chair of a relevant overview and scrutiny committee the consent of the Mayor in conjunction with the Monitoring Officer will suffice, or in their absence, agreement of both their Deputy's.

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. The cumulative value of virements between individual budget heads shall not exceed £100,000. Beyond that limit, approval for any virement between budget heads shall require the approval of the Cabinet Executive. Income may be received above the budget level in a number of circumstances – budget adjustments for excess income are limited to £100,000 for each separate occasion. Beyond that limit, approval for any adjustment shall require the approval of the Cabinet Executive.

## 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 or the Chief Executive 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 Section 151 Officer. However, the Chief Executive shall not determine whether or not the decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget.

In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and Section 151 Officer's report shall be presented 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 or Section 151 Officer report and to prepare a report to Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure, and to the overview and scrutiny committee if the Monitoring Officer or the Section 151 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 Section 151 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 make arrangements for a meeting 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 taken 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~~decided by the Leader and approved by this Council as part of set out in this Constitution. 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 (unless withheld at the request of the member) and wards of the ~~people~~members 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;
- 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; and
- 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

(a) 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.

(b) If the Leader is able to decide whether to delegate Executive functions and 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 Chair.

### 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 an Executive committee or sub-committee shall be one quarter of the total number of members of the Executive (including the Leader), or two as a minimum (as one member does not constitute a Committee) and must otherwise comply with Schedule 12 of the Local Government Act 1972.~~

~~The quorum for a meeting of the executive 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.~~

~~The quorum for a meeting of an executive sub-committee shall be one quarter of the total number of members of the executive (including the Leader), or two as a minimum (as one member does not constitute a Committee).~~

## 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 ~~23~~ month period ~~from receiving the report or recommendations.~~

**Commented [A9]:** 2 month period aligns with the Local Government Act 2000

## 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 questions from members of the public;
- 10.4 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 save for any statutory requirement to the contrary or unless the Executive are required to respond to a report or recommendation from the scrutiny committee.

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 Section 151 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 Chief Executive, Head of Paid Service, Monitoring Officer and Section 151 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.

## **13 Questions by the public**

### **13.1 General**

Members of the public may ask questions of members of the Executive at every ordinary meeting of the Executive.

### **13.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the Leader 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.

### 13.3 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 5.00 p.m. two clear working days before the day of the meeting. The following chart sets out the last day for submission of the question. Each question must give the name and address of the questioner.

Day of Meeting	
Monday	5pm the previous Wednesday
Tuesday	5pm the previous Thursday
Wednesday	5pm the previous Friday
Thursday	5pm the previous Monday
Friday	5pm the previous Tuesday

This rule will be strictly applied to ensure fairness and equality for all questioners.

### 13.4 Number of questions

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

### 13.5 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 Executive in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

### 13.6 Process in relation to questions

The Chief Executive will immediately send a copy of the accepted question to the member to whom it is to be put.

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

### 13.7 Asking the question at the meeting

The Leader will invite the questioner to put the question to the Executive.

### 13.8 Supplementary Question

A question asked under Rule 13.4 allows the questioner to ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. Rule 4.10.5 and Rule 13.5 applies to the supplementary question.

### **13.9 Written answers**

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

These answers will:

- Be published on the Council website as soon as practicable after the meeting, but in any event before the next ordinary meeting, ~~and~~
- be attached to the minutes of that meeting.

### **13.10 Record of Questions**

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

## SCHEDULE 5 - OVERVIEW AND SCRUTINY PROCEDURE RULES

- 1 The Council will operate overview and scrutiny committees as 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 municipal 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 Chair 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 Non Regulatory Committee 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 appointed at the first ordinary meeting of the Council.

### 8 Work programme

- a) The overview and scrutiny committees/sub-committees will 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.
- b) Proposals for inclusion on the work programmes will require to be submitted in the form of by a Work Programme Proposal Form through the Chair at a properly constituted meeting of the Committee and contain specific details of the subject proposed for scrutiny review along with the reasons for the proposal, the purpose of the proposal, the objectives of the proposal and officer support required. The Work Programme Proposal Form will be attached to the agenda for each overview and scrutiny committee.
- c) The Committee will consider the proposal at paragraph b) above at the next            properly            constituted meeting of the Scrutiny Committee and decide whether the            proposal            is            suitable for inclusion on the work programme.

**Commented [A10]:** AC state the localism act 2011 provides for co-optees to have voting rights – the council may wish to consider whether or not to grant voting rights to the council's co-optees. If yes amend clause accordingly.



d) The Committee will decide on the terms of reference of the scrutiny review that is to be undertaken arising from any proposal accepted for inclusion on the work programme.

## **9 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, within two calendar months, 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 calendar month of receiving it.

## **10 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 Schedule 3 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.

## **11 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 Executive for consideration (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 a single final report to the Council or Executive as appropriate, then a 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 at the next meeting of the Council or of the Executive or within one month of it being submitted, whichever is the soonest.

## **12 Meetings of Executive**

The agenda for Executive meetings shall include a standing 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 one calendar month of the overview and scrutiny committee or sub-committee completing its report/recommendations.

Overview and scrutiny committees and sub-committees will in any event have access to the 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 be able to respond in the course of the Executive's consultation process in relation to any key decision.

### 13 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 Schedule 2 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.

### 14 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 Chief Executive/Head of Paid Service to attend before it following consultation with Chief Executive/Head of Paid Service and relevant Executive Director:

1. any particular decision or series of decisions;
2. the extent to which the actions taken implement Council policy; and/or
3. ~~their performance~~ the delivery of the actions.

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 Chair of that committee or sub-committee will provide 30 days written notice by email to the said member or officer. All such notices are to be copied to the Chief Executive/Head of Paid Service at the time it is sent to the member or officer. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers or reports are required to be produced for the committee or sub-committee.

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.

### 15 Power to co-opt members

Overview and Scrutiny committees may co-opt members to its meetings to provide advice and information on specific points as required. No such co-opted members will be able to vote on any matter.

**Commented [A11]:** AC comment - The O&S Committee must not drift into matters of disciplinary proceedings – to do so may have serious consequences, including claims under employment law

**Commented [A12]:** AC comment see above re co-optees having voting rights – if we want to do this we amend the para accordingly

## 16 Attendance by others

An overview and scrutiny committee or sub-committee may invite people other than those people referred to in paragraphs 14 and 15 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

17.1 Call-in should only be used in exceptional circumstances. In particular Call-in should only be used where members of the appropriate Overview & 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 14 (Decision Making).

17.2 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, by electronic means, and shall be available on the website and 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.

17.3 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.

17.4 During that period, should the Chief Executive receive in writing or by email by the Chair or any two members of an Overview & Scrutiny committee or sub-committee, s/he shall Call in a decision for Scrutiny by the relevant Overview and Scrutiny committee and shall then notify the decision-taker of the Call-in. Each request must provide:

- (1) specific details for the reason for Call-in; and
- (2) the areas requested to be examined.

The Chief Executive in consultation with the ~~Head of Legal & Democratic Services & Monitoring Officer~~ shall have the right to reject such requests if they are frivolous, unsubstantial or repetitious.

17.5 The Chief Executive shall within ten (10) working days of the request for Call-in make arrangements for a meeting of the Overview & Scrutiny committee or sub-committee on such date as the Chief Executive may determine (where possible in consultation with the Chair of the relevant Overview & Scrutiny Committee or sub-committee). The relevant Portfolio Holder from the Executive shall be invited to attend the Overview & Scrutiny committee or sub-committee to assist the consideration of the Call-in item.

17.6 The Overview & Scrutiny Committee or sub-committee convened to consider the Call-in can take one of three steps:

1. Take no further action. The Call-in item shall then take effect on the date of the said Overview & Scrutiny committee or sub-committee meeting;
2. Refer the Call-in item back to the decision making body or person for full reconsideration. The Overview & Scrutiny committee or sub-committee; that takes this step must set out in

**Commented [A13]:** AC comment in practice yes, but as a matter of law if a decision is called in, its called in

writing the nature of the concerns that it wishes the decision making body or person to be considered;

3. Refer the Call-in item to Council.

- 17.7 Should the meeting specially convened for the purpose of consideration of a Call-in item not take place then in that event the decision subject to Call-in shall take effect on the date of the said Overview & Scrutiny committee or sub-committee meeting.
- 17.8 Call-in items at steps 2 and 3 above shall be subject to the Chief Executive making arrangements for a further meeting of the decision making body or Council within ten (10) working days of the Call-in meeting.
- 17.9 Where the Call-in item is referred back to the original decision making body it shall at the meeting consider the nature of the concerns referred to it from the specially convened Overview & Scrutiny committee. The decision making body shall decide whether to either:
- (i) Amend the earlier decision, or
  - (ii) Uphold the earlier decision

It shall then adopt the final decision with immediate effect.

- 17.10 Should the Call-in matter arranged under paragraph 17.9 not take place then in that event the Call-in item shall take effect on the date of the meeting arranged for the decision making body.
- 17.11 Where the Call-in item was a decision made by an individual member of the Executive or by an officer with delegated authority from the Executive s/he shall consider the matter with (10) ten working days of the Overview & Scrutiny meeting. In such an event the decision maker shall consider the nature of the concerns referred to him/her from the specially convened Overview & Scrutiny committee.
- 17.12 The individual member or officer shall decide whether to
- (a) Amend the earlier decision or
  - (b) Uphold the earlier decision

S/he shall then adopt the final decision with immediate effect.

- 17.13 Where the Call-in item is referred to Council. It shall at the meeting consider the nature of the concerns referred to it from the specially convened Overview & Scrutiny committee.
- 17.14 Should the Council decide to uphold the earlier decision this shall result in the matter referred to for Call-in taking effect on the date of the Council meeting.
- 17.15 Should the Call-in matter not be considered by Council or the meeting arranged under paragraph 17.13 then in that event the Call-in item shall take effect on the date of the meeting arranged for Council.
- 17.16 ~~Full Council has no locus to make~~cannot ammend decisions ~~made by of anthe~~ Executive ~~nature~~ unless it is contrary to the policy framework or contrary to or not wholly consistent with the budget. Where Council proposes to amend the original decision it must refer the matter

back to the original decision making body or person, together with the Council's views in writing on the decision.

17.17 In such circumstances the Chief Executive will make arrangements within ten (10) working days of the Council meeting for a further meeting of the decision making body. That meeting shall follow the procedure outlined in paragraph 17.9 and should the meeting not take place 17.10.

## **18 Exceptions to 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 Monitoring Officer in consultation with 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 Monitoring Officer and/or Mayor the appropriate his/her Deputy'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.

## **19 The party whip**

~~The party whip shall not apply to meetings of overview and scrutiny committee or sub-committees.~~ 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.

## **20 Procedure at overview and scrutiny committee and sub-committee meetings**

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

- 20.1 minutes of the last meeting;
- 20.2 declarations of interest (including whipping declarations);
- 20.3 forward plan;
- 20.4 consideration of any matter referred to the committee or sub-committee for a decision in relation to call in of a decision;
- 20.5 responses of the Executive to reports of the overview and scrutiny committee or sub-committee; and
- 20.6 the business otherwise set out on the agenda for the meeting.

## **21 Investigations by overview and scrutiny committees**

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:

21.1 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;

21.2 that those assisting the committee or sub-committee by giving evidence be treated with respect and courtesy; and

21.3 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.

## **22 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 committee(s), the decision as to which overview and scrutiny committee will consider it will be resolved by agreement between the Chairs of the overview and scrutiny committee. If the Chairs cannot agree -the Mayor will decide.

## 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.
4. All relevant financial interests must be declared to the Monitoring Officer.
5. All activities must be in accordance with:
  - 5.1 Legislation;
  - 5.2 Approved service plans or corporate plans;
  - 5.3 Approved service net revenue budgets or capital programmes;
  - 5.4 Relevant Council policies and adopted codes of practice.

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

6. Where practicable all activities should be in accordance with accepted best practice.
7. Best value and value for money must be sought in all activities, including the procurement of goods and services
8. 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.
9. Material changes to financial policy or the distribution of resources must be referred to the Cabinet Executive for approval.
10. Service managers have primary responsibility for the control and management of all resources of all kinds made available to them.
11. 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.
12. 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 Assistant Director - People on the procurement of information technology or the Executive Director - Finance on the arrangement of leases, rentals or agreements involving the use of assets to or from the authority.
13. All managers must ensure that all assets and personnel must be adequately secured or protected and appropriate insurance arranged where necessary.
14. 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:
  - a) the Chief Executive
  - b) the Section 151 Officer
  - c) the Head of Audit & Governance (Monitoring Officer)

- d) ~~the Monitoring Officer~~
- ~~e) External Auditors and other Statutory Inspectors~~
- ~~e) Officers Designated by any of the above.~~

Employees must supply information to those officers on request.

- 15. Managers must routinely monitor all activities under their control and report on any significant variations from expected standards.
- 16. Managers must report at regular intervals on performance on planned activities and on financial performance against approved budgets.
- 17. All employees and all Members must report any suspected:
  - a) failure in any system;
  - b) failure to comply with financial regulations;
  - c) 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 [Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes](#), ~~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, Section 151 Officer, Monitoring Officer or Head of Audit & Governance.

- 18. The Section 151 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.
- 19. 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 Public Contracts Regulations 2015 and with financial regulations when procuring goods and services.
  - 5.2.1 All Directors have primary responsibility for ensuring compliance within their service areas.
  - 5.2.2 Best value and value for money must be sought in all procurement activities. Competition must be sought in accordance with issued guidance.
  - 5.2.3 ~~The financial limits as set out within financial guidance for the procurement of goods and services should be followed. The only exceptions to these requirements shall be where the Cabinet Executive has given authority in order to achieve best value. Where the value of the goods and services is likely to be £50,000 or more the following requirements apply:~~
    - ~~5.2.3.1 tenders must be sought from three suitably qualified suppliers;~~
    - ~~5.2.3.2 the supply must be governed by a written contract.~~

~~The only exception to these requirements shall be where the Cabinet Executive has given authority in order to achieve best value.~~
  - 5.2.4 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.
  - 5.2.5 All potential suppliers of goods and services must be treated ~~equitably, equally and without discrimination. The Council shall act in a transparent and proportionate manner.~~
  - 5.2.6 In all procurement activities, arrangements must be clear regarding:
    - 5.2.6.1 the goods or services to be supplied and the supply mechanisms;
    - 5.2.6.2 the amount to be paid and the payment mechanisms;
    - 5.2.6.3 the rights and responsibilities of all parties.
  - 5.2.7 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.
  - 5.2.8 The Section 151 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.
  - 5.2.9 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/Head of Paid Service 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) 2.1~~ to be sent to any person on request.

### 3 Appointment of Chief Executive and Head of Paid Service

The full council will approve the appointment of the Chief Executive and Head of Paid Service following the recommendation of such an appointment by the 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 Chief Executive and Head of Paid Service where no material and/or well-founded objection has been made by any member of the Executive.

### 4 Appointment of ~~Oether~~ Statutory/Chief Officers

The Appointments & Staffing Committee will recommend the appointment of the following Statutory Officers – Chief Executive/Head of Paid Service, Monitoring Officer and Section 151 Officer to Council for confirmationapproval.

An offer of employment as a chief officer shall only be made where no material and/or 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 Chief Executive/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

**6.1 Suspension.** The Chief Executive, Head of Paid Service, Monitoring Officer, Section 151 Officer (a Relevant Officer) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will last no longer than two months.

**6.2** No other disciplinary action may be taken in respect of any Relevant Officer except in accordance with a recommendation in a report made by the Chief Officers Conduct Committee

## 7. CHIEF OFFICERS CONDUCT COMMITTEE

**7.1** Where it appears to the Council that an allegation of misconduct by a Relevant Officer requires to be investigated, the Chief Officers Conduct Committee will arrange for an investigation into the allegation to be carried out on its behalf

**7.2.** In the course of the investigation the Chief Officers Conduct Committee may recommendlirect:

7.2.1 that the Council terminate any suspension of the relevant officer and that they are reinstated;

7.2.2 that any such suspension must continue beyond the two month period in 6.1;

7.2.3 that the terms on which any such suspension has taken place must be varied in accordance with the direction; or

7.2.4 that no steps (whether by the Council or any Committee, Sub-committee or officer acting on behalf of the Council) towards disciplinary action or further disciplinary action against the relevant officer are to be taken before a report is made under 7.5 below.

**7.3** The Chief Officers Conduct Committee or a person acting on their behalf may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council or which the Council has the power to authorise them to inspect.

**7.4** The Chief Officers Conduct Committee or a person acting on their behalf may require any member of the Council's staff to answer questions concerning the conduct of the Relevant Officer.

**7.5** The Chief Officers Conduct Committee must make a report to the Council:

- 7.5.1 stating the committee's opinion as to whether (and if so, the extent to which) the evidence the committee has obtained supports any allegation of misconduct against the relevant officer; and
- 7.5.2 recommending any disciplinary action which appears to the committee to be appropriate for the Council to take against the relevant officer.

unless they have previously directed that the suspension be terminated and ~~the~~ the officer reinstated.

**7.6** The Chief Officers Conduct Committee must, no later than the time at which they make a report under 7.5 above to the Council, send a copy of the report to the relevant officer.

**7.7** Before the taking of a vote at a meeting to consider whether or not to approve a proposal to dismiss a relevant officer the Council must take into account, in particular;

- a) any advice, views or recommendations of the Chief Officers Conduct Committee
- b) the conclusions of any investigation into the proposed dismissal; and
- c) any representations from the relevant officer;
- d) the requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

**7.8** Members of the Council will not be involved in disciplinary action against any officer below ~~deputy~~ Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of disciplinary action. Which will be subject to the current Joint Negotiating Committee for Local Authority Chief Offices Conditions of Service Handbook.

## **8 Settlement Agreements and Termination Payments**

8.1 Where any officer leaves the employment of the Council any sums payable to the officer, whether under a settlement agreement, or otherwise by the Council shall be determined in accordance with the Council's Annual Pay Policy Statement.

8.2 Where any termination payment including pensions provision exceeds £100,000 in total then the payment must be approved by full Council.

## **PART 5 - CODES AND PROTOCOLS**

**Member Code of Conduct**

**[The Council's Arrangements for Making Complaints Against a Councillor for an Alleged Breach of the Code of Conduct](#)**

**Officer Code of Conduct**

**Protocol of Member/Officer relations**

**Pre Election Protocol**

**Protocol on Member Involvement in Commercial Transactions**

**Protocol on the use of Council Facilities, Printing and Postage**

**Gifts and Hospitality**

**Local Protocol for Officers and Members dealing with Planning Matters**

**Monitoring Officer Protocol**

**Guidance notes to complete the Register of Interests**

## SCHEDULE 9 - MEMBERS' CODE OF CONDUCT

Commented [A14]: Awaiting outcome of LGA's Model Code of Conduct Consultation

### 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~~ particularly 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 Maintaining and fulfilling the rights and obligations imposed by the requirements of Data Protection legislation.
- 4 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.

- 5 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.
- 6 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.
- 7 Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- 8 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.
- 9 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.
- 10 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.
- 11 Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- 12 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.
- 13 Keeping confidential any confidential information I receive in my role as a Councillor.
- 14 Co-operating and assisting with any investigation into a breach of the Code of Conduct or the decision making of a sub-committee.
- 15 Not attempting to interfere with any investigation by any means, including the attempted intimidation or pressuring of witnesses.

### Registration of Interests

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

The 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 Interests) Regulations 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 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. Any new interests should also be notified within 28 days. 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

~~13.16~~ Disclosable pecuniary interests as set out in the regulations<sup>1</sup> being the interest of:-

- ~~13.16.1~~ the member or co-opted member.
- ~~13.16.2~~ the spouse or partner of the member or co-opted member.
- ~~13.16.3~~ a person with whom the member or co-opted member is living as husband and wife or as if they were civil partners.
- ~~13.16.4~~ and the member or co-opted member is aware that the other person has an interest.

~~14.17~~ Disclosable pecuniary interests<sup>2</sup> are:-

- ~~14.17.1~~ Employment, office, trade profession or vocation.
- ~~14.17.2~~ Sponsorship.
- ~~14.17.3~~ Contracts with the Council.
- ~~14.17.4~~ Any interest in land in the Borough.
- ~~14.17.5~~ Any licence to occupy land in the Borough.
- ~~14.17.6~~ 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)~~ ~~13.1 to 13.3~~ above have a beneficial interest.
- ~~14.17.7~~ 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~~ Executive functions

If a member or co-opted member is present at a meeting of the Council, the ~~Cabinet~~ Executive, or any committee, sub-committee, joint committee or joint sub-committee of the Council or of the ~~executive~~ Executive 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 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~~ pecuniary 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 unless you have obtained a dispensation from the Audit and Governance Committee.**

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 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.

<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interest) Regulation 2012.

<sup>2</sup> See the regulations for the full definition.



Voluntary registration and declaration of interests – guidance

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 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 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 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. An application for dispensation should be made to the Monitoring Officer to put before the Audit & Governance Committee.

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.

Gifts and Hospitality

This Code and Schedule 15 of the Constitution (Gifts and Hospitality) require to be followed in conjunction with each other.

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.....

# The Council's Arrangements for Making Complaints Against a Councillor for an Alleged Breach of the Code of Conduct

**Commented [A15]:** This is the version of the current Procedure from our website.

## 1. Introduction and Context

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- 1.1 These procedures set out how you may make a complaint that an elected or co-opted member of this Council has failed to comply with the Members' Code of Conduct. The procedures set out how the Council will deal with any allegations of a failure to comply with the Members' Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the Council or of a Committee or Sub-Committee of the Council, has failed to comply with their Code of Conduct, can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation has been made.

## 2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Members, which is available for inspection on the Council's website - [www.tamworth.gov.uk](http://www.tamworth.gov.uk) and on request from Democratic Services at Marmion House, Lichfield Street, Tamworth, B79 7BZ.

## 3. Making a Complaint

- 3.1 If you wish to make a complaint, please write to:

The Monitoring Officer, Marmion House, Lichfield Street, Tamworth, B79 7BZ and a Member Complaint form will be sent to you. Alternatively, you may download a Word version of the form from [this page on Council's website](#):

**Commented [A16]:** Amend to simply refer to website

You may either return the form by post to the Monitoring Officer or email it to [Members-complaints@tamworth.gov.uk](mailto:Members-complaints@tamworth.gov.uk).

- 3.2 The Monitoring Officer is the senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of Member misconduct. In the Monitoring Officer's absence the Deputy Monitoring Officer has the same powers and responsibilities for the

purposes of these procedures.

- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form. If you need help in completing the form please contact Legal and Democratic Services on tel: 01827 709264.
- 3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. Only in exceptional circumstances will your address be kept confidential. Therefore it is important that you give clear reasons for your request for confidentiality. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
- 3.5 The Council does not normally investigate anonymous complaints, unless there is clear evidence of a potential breach of the Code and it is in the public interest to investigate the matter.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it. We will keep you informed of the progress of your complaint at the appropriate stages.
- 3.7 The Complaints Procedure Flowchart is annexed at **Appendix 1** for your assistance.

#### **4. Will your Complaint be Investigated?**

- 4.1 If the complaint is from one Member against another Member or from an Officer of the Council against a Member, then the Monitoring Officer will seek to resolve the issue without resorting to this complaints procedure. The Monitoring Officer will seek a mutually agreed outcome in such circumstances and if this is not possible then the procedure set out below will be followed.
- 4.2 The Monitoring Officer will review every complaint received from a Member of the public and may consult with the Independent Person before taking a decision as to whether it:
- a) Merits no further investigation
  - b) Merits further investigation
  - c) Should be referred to Audit & Governance Committee
- 4.3 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at **Appendix 2**. Where the Monitoring Officer has taken a decision, she will inform you of her decision and the reasons for that decision. Where the Monitoring Officer requires additional

information in order to come to a decision, she may come back to you for such information, and may request information from the member against whom your complaint is directed.

4.4 If your complaint identifies criminal conduct or breach of other regulation by a member, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

## **5. How is the Investigation Conducted?**

5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as **Appendix 3** to these arrangements.

5.2 If the Monitoring Officer decides that a complaint merits further investigation, she may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.

5.3 The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, ask the member to provide his/her explanation of events and identify what documents he/ needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the Member until the investigation has progressed sufficiently.

5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider require more consideration.

5.5 Having received and taken account of any comments which you may make, the draft Investigation Report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.

## **6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and, if she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to

you and to the Member concerned notifying you that she is satisfied that no further action is required, and give you both a copy of the Final Investigation Report.

6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

**7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Committee or, in consultation with the Independent Person, seek an informal resolution.

**a) Informal Resolution**

7.2 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit & Governance Committee for information, and no further action will be taken.

**b) Hearing**

7.3 If the Monitoring Officer considers that informal resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will present the Investigation Report to the Hearing Sub-Committee which will conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

7.4 The Council has agreed a procedure for hearing complaints, which is attached as **Appendix 4** to these arrangements.

7.5 At the hearing, the Investigating Officer or the Monitoring Officer will present their report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call

witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

7.6 The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint.

7.7 If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

**8. What action can the Hearing Sub-Committee take where a Member has failed to comply with the Code of Conduct?**

8.1 The Hearing Sub-Committee has been delegated by the Council such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may:

- a) Publish its findings in respect of the member's conduct.
- b) Report its findings to Council for information.
- c) Recommend to Council that the member be issued with a formal censure or be reprimanded.
- d) Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council.
- e) Recommend to the Leader of the Council that the Member be removed from the Cabinet/Executive, or removed from particular Portfolio responsibilities. Recommend to Council that the Member be replaced as Executive/Executive Leader.
- f) Instruct the Monitoring Officer to arrange training for the member.
- g) Remove the member from all outside appointments to which he/she has been appointed or nominated by the Council.
- h) Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and internet access.

i) Exclude the Member for up to a maximum of six months from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

8.2 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

## **9. What happens at the end of the Hearing?**

9.1 At the end of the hearing, the Chair will state the decision of the Audit & Governance Sub-Committee as to whether the member failed to comply with the Code of Conduct and any actions which the Sub-Committee resolves to take.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the Member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Assembly (Council).

## **10. Who are the Hearing Sub-Committee Members?**

10.1 It is a Sub-Committee comprising Councillors sitting on the Authority's Hearing Committee.

10.2 It will comprise of three elected members appointed from Members of the Hearing Committee who will have been drawn from all political groups.

10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11. Who is the Independent Person?**

11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, whose appointment will be ratified by the Council.

11.2 A person cannot be "independent" if he/she:

a) is, or has been within the past 5 years, a Member, co-opted Member or Officer of the Authority;

b) is a relative or close friend, of the complainant or the Member(s) against whom the complaint has been made.

11.3 For the above purpose "relative" means:-

11.3.1 Spouse or civil partner

11.3.2 Living with the other person as husband or wife or as if they were civil partners

11.3.3 Grandparent of the other person

11.3.4 A lineal descendent of a grandparent of the other person

11.3.5 A parent, sibling or a child of a person within paragraphs 11.3.1 or 11.3.2

11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 or

11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners

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## **12. Revision of these Arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter, the details of which can be found on the Council's website.

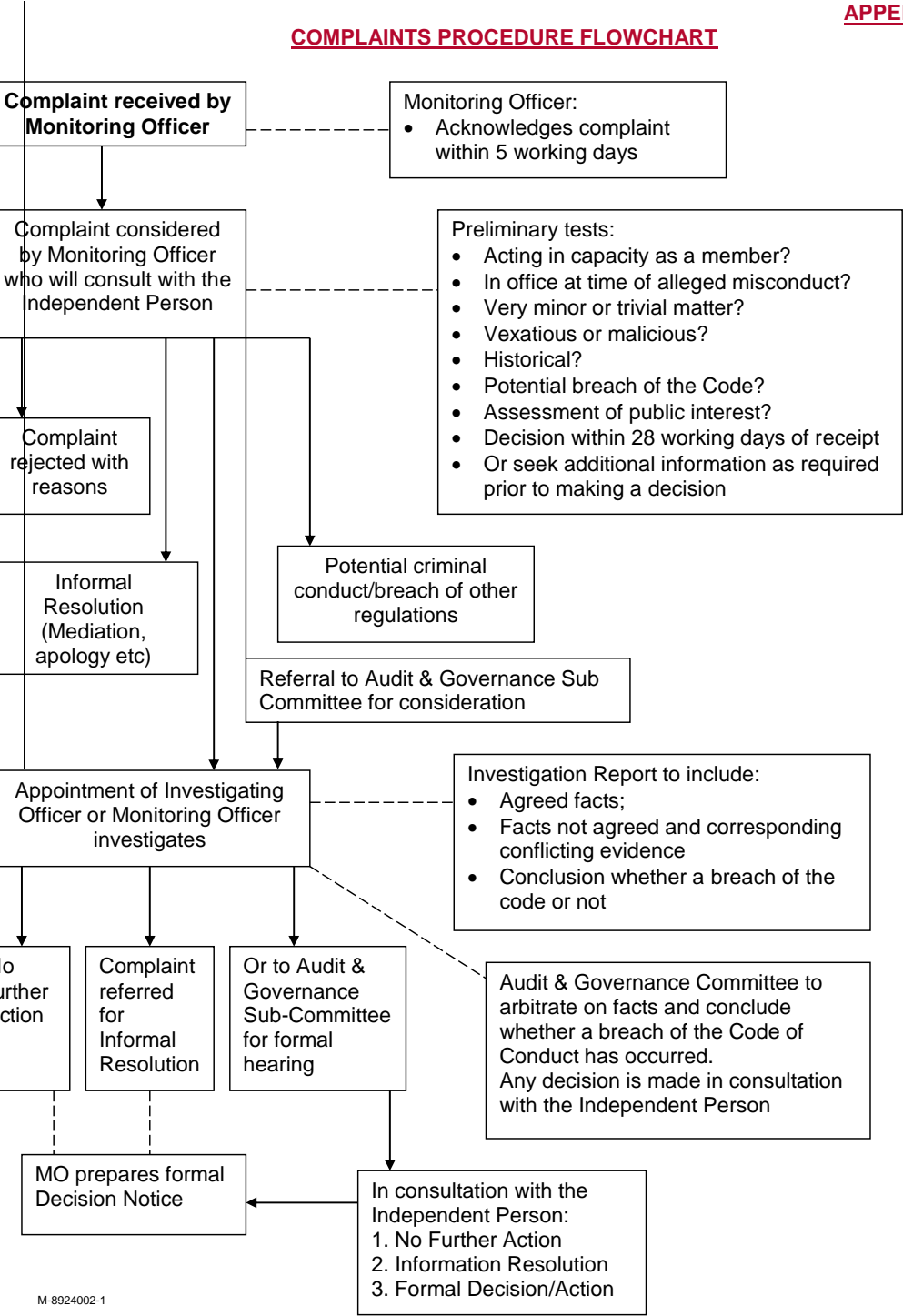
## **13. Appeals**

13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.

13.2 If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman whose details are as follows:

[www.lgo.gov.uk](http://www.lgo.gov.uk)  
Local Government Ombudsman, PO Box 4771,  
Coventry, CV4 0EH  
Tele: Advice Team – 0300 061 0614  
Text to 'call back' 0762 480 3014

**COMPLAINTS PROCEDURE FLOWCHART**



## APPENDIX 2

### COMPLAINTS ASSESSMENT CRITERIA

#### Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is "tit-for-tat"; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the member's private life or is about dissatisfaction with a Council decision or service; or
5. It is about someone who is no longer a member of the Council; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct, unless there are exceptional circumstances, e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Hearing Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

#### Complaints which may be referred to the Standards Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as

the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or

4. The complaint is about a high profile member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or

5. Such other complaints as the Monitoring Officer considers would not be appropriate for him/her to investigate.

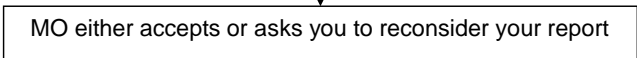
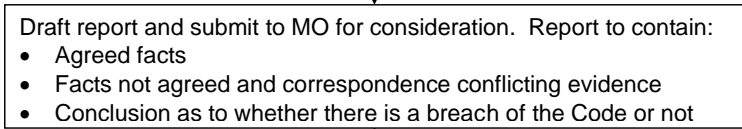
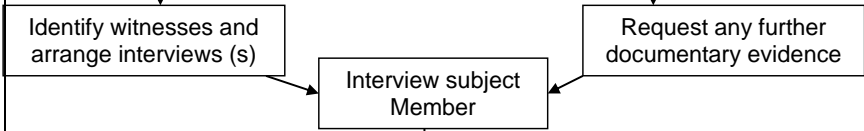
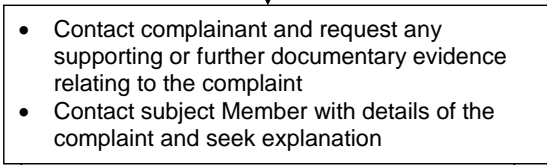
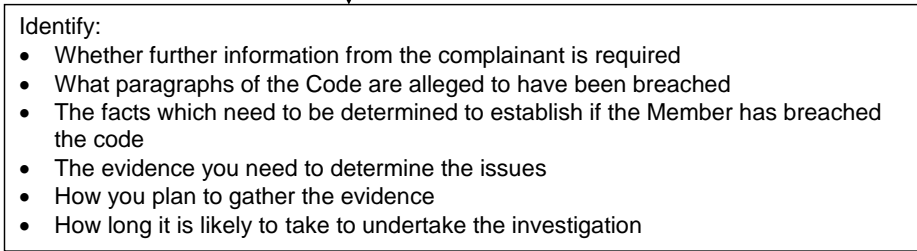
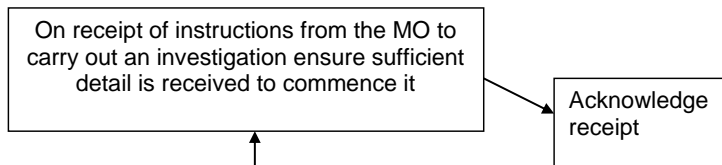
**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.**

**APPENDIX 3**

**COMPLAINTS INVESTIGATION PROCEDURE**

You should maintain a written record to demonstrate what was considered at the start of the investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer (MO).



**APPENDIX 4**

**Complaints Sub-Committee Procedure**

<b><u>Item No</u></b>	<b><u>Procedure</u></b>
1	<p align="center"><b><u>Quorum</u></b></p> <p>1.1 <u>Three Members must be present throughout the hearing to form a quorum</u></p> <p>1.2 <u>The Sub-Committee shall nominate a Chair for the meeting</u></p>
2	<p align="center"><b><u>Opening</u></b></p> <p>2.1 <u>The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc</u></p> <p>2.2 <u>The Chair asks all present to introduce themselves</u></p> <p>2.3 <u>The Councillor will be asked whether they wish to briefly outline their position</u></p>
3	<p align="center"><b><u>The Complaint</u></b></p> <p>3.1 <u>The Investigating Officer shall be invited to present their —report including any documentary evidence or other material (and to call witnesses as required by the —Investigating Officer). This report and documentary —evidence must be based on the complaint made to the —Council – no new points will be allowed</u></p> <p>3.2 <u>The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's —opportunity to ask questions rising from the Investigator's —report and not to make a statement)</u></p> <p>3.3 <u>Members of the Sub-Committee may question the —Investigating Officer upon the content of their report and/or - any witnesses called by the Investigating Officer.</u></p>

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<u>4</u>	<b><u>The Councillor's Case</u></b>
	<p><u>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).</u></p> <p><u>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</u></p> <p><u>4.3 Members of the Sub-Committee may question the Member and/or any witnesses.</u></p>
<u>5</u>	<b><u>Summing Up</u></b>
	<p><u>5.1 The Investigating Officer may sum up the complaint.</u></p> <p><u>5.2 The Member (or their representative) may sum up their case</u></p>
<u>6</u>	<b><u>Decision</u></b>
	<p><u>6.1 Members of the Sub-Committee will deliberate to consider the complaint in consultation with the Independent Person - prior to reaching a decision.</u></p> <p><u>6.2 Upon the Sub-Committee's return the Chair will announce the Sub-Committee's decision in the following terms:-</u></p> <p style="padding-left: 20px;"><u>6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</u></p> <p style="padding-left: 20px;"><u>6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</u></p> <p style="padding-left: 20px;"><u>6.2.3 The Sub-Committee will give reasons for their decision</u></p> <p><u>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Member as to:</u></p> <p style="padding-left: 20px;"><u>6.3.1 whether any action should be taken, and</u></p> <p style="padding-left: 20px;"><u>6.3.2 what form any action should take</u></p>

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| <p><u>6.4 The Sub-Committee will then deliberate to consider what —action if any should be taken in consultation with the —Independent Person</u></p> <p><u>6.5 On the Sub-Committee's return the Chair will announce the Sub-Committee's decision</u></p> <p><u>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council with a view to promoting high standards of conduct among Members</u></p> <p><u>6.7 The Chair will confirm that a full written decision shall be issued within seven working days following the hearing and that the Sub-Committee's findings will be published.</u></p> |
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## CODE OF CONDUCT FOR EMPLOYEES

### 1. INTRODUCTION

- 1.1 The public is entitled to expect the highest standards of conduct from all local government employees.
- 1.2 This Code is based on a model produced, after consultation, by the local authority associations and the Local Government Management Board. It has been developed to take into account Tamworth Borough Council corporate policies. Consultations have also taken place locally with the Trade Unions. A copy is issued to every employee. 1.3 This Code takes into account "The Seven Principles of Public Life" which are included in the Nolan Committee's report on "Standards in Public Life". These are; selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.3 The Code also reflects updated guidance in relation to the acceptance of any fee or reward other than proper remuneration and the provisions of the Bribery Act 2012 which require all gifts, hospitality or benefits to be declared.
- 1.4 The Code also reflects updated guidance in relation to the acceptance of any fee or reward other than proper remuneration and the provisions of the Bribery Act 2012 which require all gifts, hospitality or benefits to be declared.

### 2. STATUS OF THE CODE

- 2.1 The Council has chosen to adopt the Code of Conduct. The Code sets out minimum standards that employees should observe. It lays down guidelines for employees to help maintain and improve standards and protect employees from misunderstanding or criticism.

### 3. SCOPE OF THE CODE

- 3.1 The Code applies to all employees, casuals, and volunteers of Tamworth Borough Council. Where appropriate our partners and contractors are also expected to be aware of our code and comply with the minimum standards.
- 3.2 Activities carried out by Council employees acting as members of companies or voluntary organisations are subject to the minimum standards within this Code.

### 4. STANDARDS

- 4.1 As a Tamworth Borough Council employee you are expected to give the highest possible standard of service to the public. You have the following duties;
- (i) A duty of service - to work in accordance with your contract of employment; e.g. - not to be absent or late without permission.
- (ii) A duty to carry out reasonable instructions, procedures and regulations.
- (iii) A duty to care - to be competent and capable and not to be negligent in work.

(iv) A duty of good faith - to be honest and not accept a fee or commission or gifts from those who do business with the Council or to divulge confidential information about the Council.

#### **Personal Standards**

4.2 As a Tamworth Borough Council employee you are expected to:

(i) Be positive, helpful and co-operative in dealing with colleagues, Members and the public.

(ii) Provide impartial advice to councillors and colleagues.

(iii) Remember that as a Council employee your primary responsibility is to the community as expressed by the corporate policies of the Council. You should not allow departmental or sectional or other interests to take precedence over corporate policies. Within these policies you should respect the defined roles of departments, service centres and colleagues and avoid conflict and disharmony within the organisation.

(iv) Remember that you are accountable for your actions and decisions and be prepared to submit yourself to whatever scrutiny is appropriate to your office.

(v) Ensure that your personal appearance is consistent with public expectations, bearing in mind the work you do.

(vi) Bring to the attention of the appropriate level of management any deficiency in the provision of service.

(vii) Report to the appropriate manager any serious impropriety or breach of procedure. (see Whistleblowing Policy and the Counter Fraud & Corruption Strategy).

#### **Competence Standards**

4.3 As an employee you are expected to perform your duties with:

(i) due care;

(ii) competence;

(iii) diligence, and continue to maintain such standards.

4.4 If you hold a specific technical and professional qualification you should:

(i) carry out your duties in accordance with the standards set by your professional body;

(ii) conform with any guidelines on ethics produced by your professional body.

#### **Council Policies, etc.**

4.5 The Council has a Constitution, Financial ~~Regulations~~ rules and a number of corporate policies which you should familiarise yourself with. The Scheme of Delegation will set out the responsibility for certain decisions and care should be taken to ensure you have the correct authorisation to carry out tasks you are undertaking.

4.6 Your section or directorate will have specific rules, procedures and codes of practice which apply to the particular department workplace and type of work in which you are engaged. These rules are

communicated by management in various ways, including oral instructions, procedure manuals, notices, information sheets the Councils website and intranet and e-mail.

- 4.7 You are expected to comply with these rules and policies in carrying out your duties.

## 5. DISCLOSURE OF INFORMATION

- 5.1 The law requires certain types of information to be available to councillors, auditors, government departments, and the public. This 'access' legislation has ~~three~~ two main Acts, the first and second being the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR) that provides a right to request access from the general public for information the council holds. The ~~second~~ third is the Data Protection Act 2018 (DPA) that provides a right of access by a person of which we may hold your personal information.

With regard to FOI/EIR regularly requested information should be available on the Council's Publication Scheme. Copies are available from your Manager or on the Council's website.

- 5.2 Employees are expected to be open, informative and truthful in dealing with colleagues, members and the public and to provide the information under any entitlement to FOI/EIR, GDPR and in accordance with any Data Sharing Protocols. If you are not sure what should be made available, you should find out from your manager or the designated manager dealing with this access legislation.
- 5.3 There is a balance between the right of access and the right to withhold information, this is laid down in exemptions to the Acts, where by disclosure of such information would be unfair to any individual or cause harm to the council and its business partners both financially or reputation. Care must be taken by employees not to disclose information that could be seen to create these situations.
- 5.4 Any information obtained in the course of your employment should not be used for your personal gain or benefit, and you should not pass it on to anyone else who could use it for his or her benefit. Do not divulge any personal information about a fellow employee, member of the public or a Councillor without permission unless disclosure is required by law.
- 5.5 Under the Data Protection Act 2018 it may be an offence to obtain, hold or disclose personal data on others in a way which exceeds the normal completion of your duties.

The Council has rules concerning personal data and other confidential information set out overleaf and certain areas of the Council also have more specific rules or procedures concerning personal data. Breach of these may lead to action under the Council's Conduct and Capability Policy. If you are in doubt whether it is legal or appropriate to procure, keep or disclose information relating to any individual(s) you should refer to your manager for guidance.

Under the scheme of delegation only employees authorised to do so may talk to the press or otherwise make personal statements on behalf of your service, directorate or the Council.

- 5.6 Employees should not bring the council into disrepute by placing on record personal opinions about the council; recording footage not conducive with council business whilst on the premises or engaged in council business on social media sites. Employees are urged to be cautious when using social media sites and understand that anything posted on such sites are available to a wide audience and will reflect on the Council, even if they are your personal views. Care should be taken to ensure any comments should not undermine your position as a professional, trusted and responsible person. Employees should be aware that any disrespectful comments - including bullying and harassment will be dealt with under our Grievance Policy and may result in disciplinary action.

## **6. POLITICAL NEUTRALITY**

- 6.1 Employees serve the authority as a whole. You must ensure that the individual rights of all Councillors are respected.
- 6.2 You may be invited to advise political groups. Do so in a way that does not compromise your political neutrality. If you are in a politically restricted post you must ensure that you comply with the requirements of such posts.
- 6.3 All employees whether or not politically restricted must follow all lawful policies of the Council and must not let your own personal or political opinions interfere with your work.

## **7. RELATIONSHIPS WITH: -**

### ***Councillors***

- 7.1 You are responsible to the Council through your senior managers. Mutual respect between you and Councillors is essential for good local government. Avoid over familiarity with individual councillors, which could damage your relationship with and/or prove embarrassing to other employees and councillors. This can include socialising with councillors outside of work, accepting gifts or carrying out work on behalf of individual councillors (where this is not within their duties as a committee member or other office) within your working time. Where you have an existing relationship with a councillor, this should be declared to your line manager upon appointment.

### ***The Local Community and Service Users***

- 7.2 Always remember the Council's responsibility is to the community and give a courteous, efficient and impartial service to all groups and individuals within the Council's policies. Try to be positive, constructive and inclusive. When necessary make extra efforts to communicate with people with disabilities in accordance with Council policies.

### ***Contractors***

- 7.3 All relationships of a business or private nature with external contractors, or potential contractors, should be declared to your Director (see paragraph 10.1 below). If employees engage or supervise contractors or deal with suppliers on behalf of the Council then you must record any past or present business/private relationships with those organisations with the Monitoring Officer and keep your Director informed.
- 7.4 Orders and contracts must be awarded on merit, by fair competition against other tenders, in accordance with the Council's procedures and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

## **8. APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- 8.1 If employees are involved in the appointment of staff you must follow the Council's Recruitment & Selection Policy. If you are related to an applicant, or have a close personal relationship with one outside work, you must declare it to the Human Resources.
- 8.2 You should not be involved in decisions about discipline, promotion or pay adjustments for someone with whom you have a close personal relationship.

## 9. OUTSIDE COMMITMENTS

- 9.1 Employees should not take outside employment which conflicts with your Council's interests. You are required to obtain consent from your Director (see paragraph 10.1 below) before taking any outside employment (paid or unpaid) or business. A secondary employment form (Appendix 1) should be completed and submitted to your Director and then to the Monitoring Officer via HR.
- 9.2 You should comply with any Council rules about the ownership of intellectual property and copyright in work done by you during your employment with the Council. If in doubt you must consult your Head of Service, ~~the Head of Legal & Democratic or the~~ Assistant Director - People.

## 10. PERSONAL INTERESTS

- 10.1 Employees must declare to your Director (\*see table below) any financial or non-financial interests that you consider could conflict with the Council's interests, or could cause your conduct to be questioned. Such interests must be registered with the Head of ~~Legal & Democratic Services~~ HR & Organisational Development and Monitoring Officer.

### Reporting hierarchy for financial and non-financial interests

Officer:	Reports to:
Chief <del>Executive</del> <u>Executive</u> Director	Monitoring Officer
Assistant Director/Head of Service	Chief <del>Executive</del> <u>Executive</u> Director
All other employees	<u>Executive</u> <del>Executive</del> Director

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- 10.2 Employees must declare to your Director membership of any organisation not open to the public without formal membership and commitment of allegiance, and which has secrecy about rules, membership or conduct. If you are a member of an organisation of this type you must register this with the Monitoring Officer.
- 10.3 When attending meetings of the Council or its Committees you should declare any financial interest in any item and withdraw from the meeting while the matter is under consideration unless authorised to remain in the meeting by the Members present.

## 11. EQUALITY ISSUES

- 11.1 Employees must comply with and promote the Council's equality policies and other corporate policies. The public and employees have a right to be treated with fairness and equity.

## 12. SEPARATION OF ROLES DURING TENDERING

- 12.1 If employees are involved in the tendering for Council contracts or dealing with contractors you should be clear about the separation of client and contractor roles within the authority. You must comply with the Council's Contract Procedure Rules and Financial Regulations. You must be aware of the need for accountability and openness but also respect the need for commercial confidentiality.
- 12.2 If employees are in a contractor or client unit you must deal with customers, suppliers, other contractors and sub-contractors fairly and impartially.
- 12.3 If employees see confidential information on tenders or costs for either internal or external contractors you must not disclose that information to any unauthorised person.

12.4 If employees intend to participate in a management or employee buyout you must inform the Chief ~~Executive~~Executive or your ~~Executive~~Executive Director and record this with the Monitoring Officer, you must withdraw from the contract awarding processes immediately.

12.5 Employees must not treat current or former employees or your partners, close relatives or associates more or less favourably than other people when considering the award of contracts to businesses run by them or employing them.

### 13. BRIBERY

13.1 It is a serious criminal offence to receive or give any gift, loan, fee, reward or advantage. If an allegation is made you may have to demonstrate that any such rewards have not been obtained that would be seen as a bribe. The definition of Bribery (as per the Bribery Act 2010) is detailed in the Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes.

### 14. USE OF FINANCIAL RESOURCES

14.1 Employees must ensure that you use public funds entrusted to them in a responsible and lawful way. You should try to obtain value for money to the local community and avoid legal challenge to the authority. You must comply with the Council's Financial Regulations.

### 15. HOSPITALITY AND GIFTS

#### 15.1 *Introduction*

As public service employees, Council staff must act, and be seen to act, with the highest standards of integrity. In the course of your work you may encounter situations, which, if not handled properly, could call your integrity into question. Examples of such situations include being offered tokens of appreciation or opportunities to meet socially with contractors or suppliers to the Council. This Guidance aims to help them to deal with such situations.

The over-riding principle is that all employees, your family, your friends or any organisation of which you are a member or with which you are closely associated should not accept any gift, consideration or hospitality that would call into question:

- your honesty;
- your ability to deal impartially and equitably with all service users, potential or actual contractors or suppliers;
- your commitment and ability to pursue the best interests of the Council.

If you would feel uncomfortable giving an account of your actions to management or reading an account of your actions on the front page of the local newspaper – don't take the action.

To protect you and the Council there is a Register of Disclosures and Interests and a Register of Gifts and Hospitality held by the Monitoring Officer

This Guidance should help all employees understand what to register. If you need any guidance or advice on matters raised in this document, you can speak to your manager or to the Monitoring Officer.

#### 15.2 *Gifts*

Employees must not seek gifts, additional payments or any other personal advantage (such as discounts or free services) from any service user, potential or actual contractor or supplier.

You must not accept payments or any other form of personal advantage from any service user, potential or actual contractor or supplier. The only exception to this is that some service users like to "tip" employees, particularly at Christmas. Small tokens of appreciation may be accepted in such circumstances but a record must be kept of tips received. The record should be given to the most senior employee at the work place who will then pass it to your 'off-site' manager.

You may accept gifts of token value such as pens, diaries, etc. from potential or actual contractors or suppliers. Such gifts may be kept for your personal or business use. You should, however, be aware of the adverse impression that may be created for competitors seeking to do business with the Council.

You may accept gifts with nominal value from visitors to the Council when the gifts are proffered as tokens of friendship between Tamworth Borough and the visitors' hometown or country.

If employees receive a gift of more than token or nominal value and it would cause offence or be impracticable to return it, you should register the gift (see below) and inform your manager. Such gifts will normally either be donated to a charity or may, if suitable, be kept for use on Council premises.

If you are offered a gift and you believe or suspect that the offer is made with the intention of influencing you to give favourable treatment to a service user, potential or actual contractor or supplier, you must inform your Director, [Assistant Director](#), or the Monitoring Officer.

### 15.3 **Hospitality**

You must not solicit hospitality (for example meals, tickets to sporting or cultural events) from any service user, potential or actual contractor or supplier.

You must not accept offers of hospitality unless you have the permission of your Director or the Monitoring Officer. Hospitality, which you have permission to accept, must be registered in the Register of Gifts and Hospitality. Permission will not normally be granted for hospitality that requires overnight accommodation at the host's expense.

You should not allow a potential or actual contractor or supplier to pay for them to visit your sites or premises to inspect your goods or services. If such visits are necessary, the Council will meet the costs involved. When visiting potential or actual contractors or suppliers you may accept refreshments appropriate to a work situation.

You do not need prior permission to accept a meal which is offered in work-related circumstances and which would enable your work to be expedited, provided that the costs are reasonable in the circumstances.

You do not need prior permission to accept modest hospitality offered at conferences and courses provided that the hospitality is offered to a number of people in similar roles (i.e. is corporate) rather than personal.

If you are offered hospitality and you believe or suspect that the offer is made with the intention of influencing them to give favourable treatment to a service user, potential or actual contractor or supplier, you must inform your Director, or the Monitoring Officer.

### 15.4 **Prizes**

If you enter competitions or prize draws associated with your work (i.e. a prize draw during a training course or for completing feedback/survey). These prizes should be declared but you will be eligible to claim them for personal use.

#### 15.5 **Registers of Disclosures and Interests and Gifts and Hospitality**

The Council's Register of Disclosures and Interests and Register of Gifts and Hospitality are held by the Monitoring Officer

Electronic copies of forms for registering interests, gifts, hospitality etc. can be obtained from on-line forms on the Intranet. Completed forms should be e-mailed to the Solicitor/Monitoring Officer or, if in hard copy format, sent to Marmion House in an envelope clearly marked as Confidential

#### 15.6 **Confidential Reporting or Whistleblowing**

If employees believe or suspect that a colleague in the Council or any service user, potential or actual contractor or supplier is involved in corrupt or questionable practices, you should refer to the Counter Fraud and Corruption Strategy and/or the Whistleblowing Policy. These policies detail the relevant reporting procedures.

### 16. **SPONSORSHIP - GIVING AND RECEIVING**

16.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

16.2 When the Council sponsors an event or service neither you nor your partner, any relative or personal friends must benefit from the sponsorship in a direct way without there being full disclosure to your Director.

You must register any such interest with the Monitoring Officer.

16.3 Where the Council through sponsorship, grant aid, financial or other means is giving support in the community, and you are giving advice ensure that it is impartial and that there is no conflict of interest involved.

### 17. **DISCIPLINARY RULES**

17.1 This Code forms part of the Council's Conduct Rules. The rules applied are those of normal good conduct. The rules are expressed in the Council's Conduct & Capability Policy, which has the aims of establishing and maintaining a fair and equitable standard of discipline throughout the Council and encouraging improvements in conduct.

17.2 All employees should have a copy of the Council's Conduct & Capability. If you do not have one please contact your Manager or Human Resources.



Appendix 1

**Secondary Employment Request Form**

*Please complete in full and forward to the Human Resources Department where the information will be kept on your personal file.*

The Council will permit you to undertake additional work providing the Council is satisfied that this does not conflict with the following:

- The interests of the Council
- The performance of your normal duties
- The requirements of the Working Time Regulations

**Your Personal Information**

<b>Name:</b>	<b>Service:</b>
<b>Position:</b>	<b>Grade:</b>
<b>Line Manager:</b>	

**Secondary Employment Information**

Please note that ALL employment voluntary/paid or unpaid MUST be declared.

<b>Name of Employer/Business:</b>		<b>Position:</b>
<b>Line Manager:</b>		<b>Contact No:</b>
<b>Total working hours:</b>	<b>Days and hours of work</b>	
Nature of work (description of duties and responsibilities)		

**Additional Information**

There will/will not be instances where my Secondary Employment will conflict with my work at Tamworth Borough Council (this could mean conflict in time or where the performance of your duties at Tamworth Borough Council is affected)

Please circle as appropriate: YES NO

If yes, please give details:

I confirm that the above information is correct and that my secondary employment in this instance will not have a conflict of interest with, or have a detrimental effect on, my work at Tamworth Borough Council. I will inform my Director in writing if there are any changes to the above. I understand and accept that false information given with regard to this secondary employment could be investigated under the Council's capability and conduct policy.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Employee's signature)

Printed Name: \_\_\_\_\_

I agree to the employee taking on Secondary Employment in accordance with the above information:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Director)

Printed Name \_\_\_\_\_

## SCHEDULE 11 - PROTOCOL FOR MEMBER/OFFICER RELATIONS

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## 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.

Chair of the Council  
Leader of the ~~Executive~~Executive  
~~Executive~~Executive member  
Portfolio holder (with or without delegated authority)  
Chair of a Scrutiny Committee  
Member of a Scrutiny Committee  
Chair 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 age, disability, gender reassignment, marriage or civil partnership, race, religion or belief, sex or sexual orientation, 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 Section 151 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 calling 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 a member of the Corporate Management Team;
  - 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 or 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 disclosable interest or where to do so would be in breach of any statutory provision.

## 9 ~~Press releases~~ Media, social media comments/postings and correspondence (including e-mails)

- 9.1 Press releases and other media 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 Chair, 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 treated as a breach of the Code of Conduct and 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~~ Chief Executive 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 Chair 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 ~~pre~~ceeding 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.~~

**Commented [A18]:** This guidance is set out in the constitution and provided for by the RPA 1983 so no need for this provision.

## 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 or falls within the General Disposal consent;

- 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 Contract Regulations 2015
  - 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
    - ~~3.4.4~~ 3.4.5 the law relating to sState aid
    - ~~3.4.4~~ 3.4.6 the Council's financial procedure rules
    - ~~3.4.4~~ 3.4.7 the Council's contract procedure rules
- 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 of Conduct for Councillors and the ~~code~~ of conduct for officers.

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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 Members 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 or 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 their 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 Chair of the relevant Committee, or more likely the Leader or relevant Executive Member 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 and not make their mind up before they have all the facts. 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 or

**Executive** 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 reported 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 Chair 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~~ Finance. 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 (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 Section 151 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 provides for the delegation of decision making and by way of this Constitution, enables individual members of a Council's Executive to make decisions which will bind the authority, and ~~when this~~ when this 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. Councillors must comply with the confidentiality provisions of the Code of Conduct.

[N.B. References to the Monitoring Officer in this document should in the post holders absence be referred to the Deputy Monitoring Officer.]

## SCHEDULE 14 - PROTOCOL ON THE USE OF COUNCIL FACILITIES, PRINTING AND PHOTOCOPYING

### 1 INTRODUCTION

The Council only has power to provide facilities that assist Members in discharging their role as Members of the Council. Such 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 such facilities provided under the Members' Services budget and has been approved.

#### ~~1.1 PRINTING AND PHOTOCOPYING~~

##### ~~1.1.1 Basis of Provision~~

~~Printing facilities are available to Members of the Council (1) in their capacity as Ward Councillors for the purpose of the provision of information to constituents in their Wards and (2) in relation to their Special Responsibility for the purpose of the provision of information to residents, elected representatives or public service/third sector partners 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~~
- ~~(d) the policies or beliefs of any individual group or councillor~~
- ~~(e) third party campaigns~~

##### ~~1.1.2 Detailed Arrangements~~

~~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.~~

## ~~1.2 — MULTI-FUNCTIONAL DEVICES~~

~~Members have use of all Multi-Functional Device's (MFD's) in Marmion House on a self service basis. Member's pass number is the login for all MFD's. Members require to undertake their own printing and photocopying at any of the devices in connection with Council business only. Short run printing facilities connected to a networked PC also are provided in Member's Lounge in connection with Council business only.~~

~~Members use will be monitored on an individual and overall basis, in line with the monthly entitlement.~~

### ~~1.31.1~~ 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 and Members' correspondence with constituents concerning Council business.

The Coat of Arms and the Council's logo must not be used for party political or election campaigning, or for private purposes, and must not be used in conjunction with any political party logo or branding. For clarity this is when an elected member writes directly to a constituent on a matter they are corresponding on.

Use by members of the Council is only acceptable on material produced under the arrangements for Members printing, or on Members personalised stationery.

### ~~1.41.2~~ 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 bureau or reference to other representative roles undertaken where that role arises from being a Member of Tamworth Borough Council.

**Commented [A19]:** Complete removal of members paper allowance as previously requested

## 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 for members is set out in this Schedule and in the Bribery Act. These requirements are 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 of Conduct for Members, or failure to declare receipt of such a gift or hospitality, could lead to disqualification from holding any public office. Corrupt acceptance, under the Bribery Act, of a gift or hospitality can lead to a heavy fine or up to 10 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 otherwise 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 in 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 food, 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 of:



- (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: Monitoring Officer

**Members 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**

### **1 INTRODUCTION**

1.1 This protocol has been prepared to guide members and officers in the discharge of the Borough Council's statutory planning functions. This protocol will also inform potential developers and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its planning powers.

1.2 For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Planning Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.

1.3 The provisions of this protocol are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and officers making such decisions are held accountable for those decisions. The protocol is also designed to assist Members and officers in dealing with approaches from property owners.

1.4 If you have any doubts about the application of this protocol, you should seek early advice, preferably well before any meeting takes place from the Head of Managed Growth, Regeneration & Development and/or the Monitoring Officer.

1.5 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.

1.6 Members should always appreciate that the appearance of what they do is just as important as the substance of it.

1.7 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.

1.8 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.

1.9 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 protocol.

### **2. CONTEXT**

2.1 Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It is often highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions). This is reinforced by the legal status of development plans

and decision notices. It is essential, therefore, that the planning process is characterised by open and transparent decision-making.

2.2 One of the key purposes of the planning system is to ensure development takes place through a framework whereby the public interest is well represented at every point from the preparation of Development Plans and policies, the determination of planning applications and in undertaking enforcement action. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable planning reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.

2.3 This protocol applies to both Councillors and planning officers who become involved in operating the planning system – it is not therefore restricted to professional town planners and Planning Committee members. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

2.4 The Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.

### 3. GENERAL PLANNING CONSIDERATIONS

3.1 The Council's ~~Cabinet-Executive~~ is responsible for preparing and recommending to Council the adoption of the Statutory Development Plan, Development Briefs and other forms of Supplementary Planning Guidance. Members of the Planning Committee, when determining planning applications, must have regard to the Council's policies contained in the Development Plan and Supplementary Planning Guidance adopted by the Borough Council together with Government Guidance contained in the National Planning Policy Framework and other material considerations. Where this is relevant, applications must be determined in accordance with the Plan unless material considerations indicate otherwise.

3.2 Tamworth Borough Council's Code of Conduct for Members must be complied with throughout the decision making process, which includes mandatory requirements with regard to member interests.

3.3 The responsibility for declaring an interest rests with individual Members and Officers of the Council. This protocol outlines further rules applicable to the planning process in Tamworth.

3.4 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on committees and to models based on forms of Executives or elected mayors. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council, the Executive or a committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each others positions. This relationship, and the trust which underpins it, should never be abused or compromised.

3.5 Both Councillors and Officers are guided by codes of conduct. Tamworth's Code of Conduct for Members, provides standards and guidance for Councillors. Employees are subject to the Employees' Code of Conduct. In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business.

3.6 Tamworth's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including

the need to register and declare interests, also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on the Planning Committee or Executive, or who become involved in making a planning decision is the requirement that a Member 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.

3.7 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.

3.8 From time to time applicants may submit confidential information for example a financial appraisal in support of an application. Such appraisals will be taken into account in relation to determination of the application but such information due to its confidential nature should not be disclosed to third parties and members of the public.

#### **4 LOBBYING AND ATTENDANCE AT PUBLIC MEETINGS**

4.1 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.

4.2 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 Growth Assets and Environment. Officers will happily assist applicants who are unsure of what to do.

4.3 Approaches may be by way of letter, e-mail or personally either over the telephone or perhaps at a surgery. If the approach is by letter, or e-mail, 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, or e-mail, can be simply acknowledged, together with confirmation that it has been passed to the Planning Officer and will be taken into account.

4.4 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.

4.5 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.

4.6 However, you should NEVER:-

4.6.1 state unequivocally that you are opposed to or in favour of a particular outcome to an application;

4.6.2 promise to or actually campaign for or lobby other Members for a particular result of an application;

4.6.3 promise to take a particular stand or vote in a particular way when an application is presented for decision.

4.7 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:

4.7.1 you are expressing a view before the meeting and you will only make a final decision at the meeting itself;

4.7.2 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

4.7.3 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.

4.8 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.

4.9 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.

4.10 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.

4.11 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 Corporate Director Growth & Regeneration 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.

4.12 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:

4.12.1 how to submit a planning application;

4.12.2 how to inspect a planning application and to make representations in support of or to object to an application;

4.12.3 how to find out the relevant planning policies;

4.12.4 which planning applications are determined by officers under delegated powers and which come before the Planning Committee;

4.12.5 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.

4.13 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.

4.14 Whilst Members involved in making decisions on planning applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Planning Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the Director's report and any public speaking at the Planning Committee.

4.15 The Chair and vice Chair of the Planning Committee should attend a briefing with Officers prior to a Committee, to help give an effective lead in the Committee.

## **5 SITE VISITS**

5.1 Except in accordance with the following provisions of this part of the protocol, you should avoid entering any premises which are the subject of a planning application.

5.2 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.

5.3 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 stating the reasons. 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.

5.4 Members and Officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:

5.4.1 the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or

5.4.2 there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.

5.5 The site visit shall take place in accordance with strict guidelines as follows:

5.5.1 Under the Chair's guidance the role of the Planning Officer attending the site visit will be to brief Members on the planning applications(s) the subject of the visit and explain the reasons why the application was deferred for a visit;

5.5.2 The Chair (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit;

5.5.3 Members of the Planning Committee should inspect the site as a group. They must ensure that they see or inspect all relevant matters so they can fully assess the planning merits of the proposal;

5.5.4 Members may ask questions, through the Chair, of the applicant or any third parties on the site;

5.5.5 Members should not enter into discussions of the merits of the proposal with the applicant, third parties or other Councillors during the site visit;

5.5.6 Members shall be seen to be perfectly scrupulous and fair to both the applicant and third parties at all site visits;

5.5.7 Members should not leave the site visit until the Chair has indicated the meeting has ended;

5.5.8 Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts within or adjoining the site.

5.6 The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the planning application and which would not be apparent from the planning application to be considered by the Planning Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Discussions on site visits shall be confined to the application as currently submitted. A Member of Planning Committee who has a personal and prejudicial interest in a planning application, or who has acted in a way that amounts to predetermination, cannot attend the site visit in his or her capacity as a Member of Planning Committee. However, the Member concerned would be entitled to attend the site visit in his or her personal capacity as a member of the public.

5.7 Results of the site visit will be reported to the next available meeting of the Planning Committee and should any new material considerations have been identified the application will be deferred for a further report.

5.8 Once the results of a site visit have been reported back to Planning Committee, Members of the Planning Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that planning application.

5.9 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.

5.10 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 the Planning Committee meeting.



5.11 Ward Councillors, Councillors whose Ward could be impacted by proposals on a site near to a Ward boundary and MPs may attend and participate in site visits putting forward their point of view. However, the determination of planning applications rests solely with the Planning Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

5.12 Prospective election candidates who are not already Members of the Council are welcome to attend a site visit on the same basis as members of the public.

## **6 MEETINGS OF THE PLANNING COMMITTEE**

6.1 A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Planning Committee.

6.2 No material revision to any planning application which might lead to a change in the recommendation of the Director shall be considered at Planning Committee unless it has been submitted at least 14 clear days before the relevant Planning Committee meeting, and has been the subject of a written report prepared by the Director of Communities Planning and Partnerships.

6.3 Chairship – The chair should ensure:

6.3.1 Members' comments at Committee only relate to the planning merits of the application before them;

6.3.2 Reference at Committee to non-planning issues by the public/Members are discouraged;

6.3.3 The cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and

6.3.4 Late evidence from public speakers – Members and the public should be made aware that the late submission of evidence will not be permitted at Committee as late submission can lead to allegations of unfairness.

6.4 Voting –

6.4.1 A decision is made by simple majority of those members voting and present in the meeting at the time the motion is put;

6.4.2 if there are equal numbers of votes for and against the Chair has a second or casting vote. There is no restriction on how the Chair of the meeting chooses to exercise this vote

6.5 Training

6.5.1 Members dealing with planning issues will be required to attend training sessions each year to receive guidance in relation to planning regulations and procedures and on declarations of personal or prejudicial interests. This training should include a balance of the following:-

- Organised visits to review permissions granted, with evaluation and lessons learned presented as a paper;
- Short (half day) sessions on special topics of interest or where overturns have indicated problems with planning policy;
- Special topic groups to consider difficult and challenging issues in depth;
- Formal training by internal and external speakers;
- Visits to other authorities who have received good inspection / audit feedback;
- Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impact, followed by a brief question and answer session;

- Attendance at inquiries where officers have identified that there is something specific to learn which will benefit members.

6.5.2 The report of the Audit Commission 'Building in Quality' recommend that Councillors should revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision making, thereby strengthening public, confidence in the planning system, and can help with reviews of planning policies. Such reviews are best undertaken at least annually. They should include examples from a broad range of categories such as major and minor development; permitted departures; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices. The Corporate Director Growth, Assets and Environment will take responsibility for organising the training and the reviews.

6.5.3 The guidance emphasises 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.

## 7 OUTSIDE BODIES

7.1 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 an empathy 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.

7.2 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 Borough Council meeting deciding the application.

7.3 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 Monitoring Officer. Unpaid directorships or membership of the Management Committee of an organisation 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 an 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.

7.4 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 Borough Council meeting that considers the matter.

7.5 Similarly, if you took part in the decision within the Borough 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 Council scheme at the Borough Council 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.

## **8 POLITICAL PARTIES**

8.1 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.

## **9 DISCLOSABLE PECUNIARY INTERESTS**

9.1 The Disclosable Pecuniary Interests which members are required to register are now defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the list of definitions is appended to this Guidance Note.

9.2 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.

9.3 Where you have not previously registered a Disclosable Pecuniary interest in a 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.

## **10 OTHER MEMBERS' INTERESTS**

10.1 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.

10.2 A member will have an "other interest" in an item of business where:

10.2.1 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 that member's family or a person with whom they 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 the member has been elected or otherwise of the authority's administrative area; or

10.2.2 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 family or a person with whom the member has a close association, and that interest is not a Disclosable Pecuniary Interest.

10.3 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.

10.4 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.

10.5 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. You should also register this interest with the Monitoring Officer.

10.6 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:

10.6.1 You should invite a Member from the same ward or from a neighbouring ward to take an interest in the matter;

10.6.2 Constituents who approach you should be invited to contact that other Member or any other Member of the deciding body;

10.6.3 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.

10.7 Having said this, in some circumstances it may be appropriate to comment on a planning application in your private capacity. 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 note paper, 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.

## **11 APPLICATIONS BY MEMBERS AND OFFICERS**

11.1 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 with in accordance with these provisions, which follow the recommendations of the Local Government Association.

11.2 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.

11.3 If the application is one which would normally be dealt with under delegated powers the Head of Growth & Regeneration may decline the delegation and the matter submitted to Planning Committee for determination.

11.4 Prior to the matter being included on a Planning Committee 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.

11.5 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 position.

11.6 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 Planning Committee 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 being submitted to Council depending on the application submitted.

11.7 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.

11.8 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 Mayor, Chair of Planning Committee and all Group Leaders) considers it appropriate.

## **12 PUBLIC SPEAKING**

12.1 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.

12.2 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.

12.3 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.

## **13 APPLICANT/OBJECTOR MEETINGS**

13.1 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.

13.2 In some limited circumstances it may be appropriate for you to attend such presentations, but you should always seek advice from the Assistant Director Growth & Regeneration/~~Head of Legal & Democratic Services~~ 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.

13.3 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 organisers that

their presentation material should be copied to the case officer so that he/she may take it into account and advise on it.

13.4 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.

#### **14 DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN**

14.1 Legislation requires that where the Development Plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise (Section 38 (6), Planning & Compulsory Purchase Act 2004). 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.

14.2 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.

14.3 If the officer's report recommends approval of an application which conflicts with the Development Plan, the report will include full justification for this.

14.4 Where the Committee has concerns about the validity of reasons for approving or refusing an application, consideration should be given to deferring the application to the subsequent meeting to another meeting to have the putative reasons tested and an updated report produced for consideration at the next meeting at which a decision will be made.

14.5 When a planning application has been deferred following a resolution of "minded to approve" or "minded to refuse", contrary to the officer's recommendation, the Chair shall put to the meeting a proposed statement of why the Assistant Director Growth & Regeneration recommendation for refusal or approval is not considered acceptable to the Committee, which, when agreed by the Committee, will be formally recorded in the Minutes.

14.6 When a planning application has been deferred following a resolution of "minded to approve" "or minded to refuse", contrary to the officer's recommendation, then at the subsequent meeting the Assistant Director Growth & Regeneration shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting or refusing permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting or refusing permission, and a minute of the Committee's reasons should be made. Such reasons should be clear and justified. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'. The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.

14.7 If a councillor is concerned about an officer recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting.

If the Planning Committee makes a decision contrary to the Executive Director Place recommendation, the officer should be given an opportunity to explain the implications of the contrary decision. The Courts have expressed the view that reasons for the contrary decision should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds.

14.8 A senior legal officer should always attend meetings of the Planning Committee to ensure the probity and propriety of the planning and decision-making processes. Whilst authorities make extensive use of standard wordings for conditions, in the case of any conditions which Members may wish to add or amend, an officer should be asked to draft any such conditions and bring them back for approval at the subsequent meeting of the Planning Committee.

14.9 Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chair prior to dealing with the next agenda item, by requesting from each member as to how they have voted, noting this and the member's name.

## **15 CONCLUSION**

15.1 At all times you must appreciate that as a Member of the Council in general and as a Member of Planning Committee that you take on an onerous duty. As the Code of Conduct points out, your duty is to the whole community and not to any one 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.

## **16 GUIDELINES ON PRE-DECISION DISCUSSIONS**

16.1 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.

16.2 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.

16.3 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.

16.4 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.

16.5 The involvement of Councillors in such discussions should be recorded in the relevant Panel or Committee minutes.

16.6 A senior legal officer always attends the meeting to ensure that procedures have been properly followed. Whilst the Council makes extensive use of standard wording 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.

## 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 Head of Audit & Governance, 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~~Executive, ~~Executive~~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 Executive~~, ~~Cabinet – Executive~~ 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 Section 151 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 Section 151 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, Section 151 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 Executive~~, 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 Chair 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 vires 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-Executive~~ members do not need to declare their ~~Cabinet Executive~~ 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 include 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 [Executive 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 £5,171 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 subject to a discount of 10% for any Member who attends less than 75% of the scheduled meeting of the Committees that they are appointed to.

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 subject to a discount of 10% for any Member who attends less than 75% of the scheduled meeting of the Committees that they are appointed to.

6.2.3 A Councillor shall be entitled to claim only one special responsibility allowance.

### **6.3 Fees**

Each year Tamworth Borough Council will pay for each Member the Information Commissioners Office annual subscription (currently £35) in relation to the individual cost of registration for Data Protection purposes.

### **6.4 Renunciation**

A Councillor may by notice in writing given to the –Chief Executive elect to forego any part of his/her entitlement to an allowance under this scheme.

### **6.5 Part-year Entitlements**

6.5.1 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.

6.5.2 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.

6.5.3 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.

6.5.4 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.

6.5.5 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.

6.5.6 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 Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## 6.6 Payments

6.6.1 Payment shall be made in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one-twelfth of 90% of the amount specified in this scheme on the 20th day of each month. The remaining 10% paid as a lump sum at the end of the municipal year where Members have attended 75% of the scheduled meetings of the Committees that they are appointed to;



6.6.2 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.

#### 6.7 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 ~~Head of Legal & Democratic Chief Executive~~ ~~Executive~~, ~~Head of Paid Service~~ ~~or Monitoring Officer~~ ~~Services~~ after consultation if necessary with the ~~Executive 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.

Commented [A20]: Check this

#### 6.8 Travelling

Payment to Councillors and Co-optees for travelling and subsistence will be made in accordance with HMRC rates where expenditure is incurred for the purpose of performing any approved duty.

#### 6.9 Subsistence

**Payment to Councillors and Co-optees for travelling and subsistence will be made in accordance with rates paid to staff in terms of the Corporate Travel and Subsistence Policy.**

#### 6.10 Attendance at Conferences and Training Events

The Chief Executive, after consultation with the ~~Executive 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.

#### 6.11 Childcare and Dependent Relatives Allowance

Payment for childcare and dependent relatives' allowance will be in accordance with Schedule 2.

#### 6.12 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 Finance.

#### 6.13 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.

#### ~~6.14 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~~

Commented [A21]: Pursuant to changes to the rules this provision is no longer required

~~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 Council determined a Basic Allowance per annum of £5,338.

The Council determined an allowance of £45 per meeting under four hours duration and £90 for each meeting over four hours duration for Chairs of Licensing Sub-Committees and Co-optees.

For Members with special responsibilities the following Special Responsibility Allowances (SRA) per annum were determined as follows:-

### MEMBERS ALLOWANCES INCLUDING 1% INCREASE FOR 2018/19

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Basic Allowance	<del>£5,391.20</del> <u>£5,609.00</u>
Leader of the Council	<del>£13,492.80</del> <u>£14,037.91</u>
Deputy Leader of the Council	<del>£10,119.34</del> <u>£10,528.16</u>
Member of <del>Executive Cabinet</del> (other than Leader & Deputy)	<del>£8,769.91</del> <u>£9,124.22</u>
Chairs of Scrutiny Committees	<del>£6,070.66</del> <u>£6,315.91</u>
Chair of Planning Committee	<del>£6,070.66</del> <u>£6,315.91</u>
Chair of Audit & Governance Committee	<del>£3,372.39</del> <u>£3,508.64</u>
Chair of Licensing Committee	<del>£1,348.35</del> <u>£1,402.83</u>
Leader of Larger Opposition Group	<del>£6,070.66</del> <u>£6,315.91</u>
Deputy Leader of Larger Opposition Group	<del>£3,372.39</del> <u>£3,508.64</u>
Deputy Leader of Larger Opposition Group (7 or less members)	<del>£2,024.04</del> <u>£2,105.81</u>
Leader of Minor Opposition Group (4 or more members)	<del>£1,348.35</del> <u>£1,402.83</u>

|

## 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-aged between 21 - 24 at a rate of £67.570 per hour and carers aged 18-20 at a rate of £56.135 per hour and carers aged 16-17 at a rate of £34.7935 per hour. Apprentices under 19 or in the first year of their apprenticeship £3.90. Rates are revised annually in October. 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 (INCLUDING HOURS) EG: COMMITTEE TIMES, DATES ETC

.....  
.....

DATE OF APPROVED DUTY.....

AMOUNT CLAIMED.....

AGE OF CARER.....

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.....

Signature of Authorised Officer .....

Name of Authorised Officer .....

Date.....

\*Delete as appropriate

Please attach copy receipt of the payment to carer

Please return this form to Democratic Services

## TAMWORTH BOROUGH COUNCIL; JOB DESCRIPTIONS FOR MEMBER ROLES

### COUNCILLORS

#### Purpose

1. To participate constructively in the good governance of the Borough of Tamworth.
2. To contribute actively to the formation and scrutiny of the authority's policies, budget, strategies and service delivery.
3. To represent effectively the interests of the Ward for which the councillor was elected, and deal with constituents' enquiries and representations.
5. To represent the council effectively, when appointed to an outside body.
6. To act at all times with probity and propriety and in the best interests of the Council.

#### Duties and Responsibilities

1. To fulfil the statutory and locally determined requirements of an elected member of a local authority and the authority itself, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the full Council
2. To participate effectively as a member of any Committee when so appointed
3. To participate in the activities of any outside body when so appointed
4. To participate in the scrutiny or performance review of the services of the authority including, where the authority so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council5To participate, as appointed, in consultative processes with the community and other organisations and to provide a link between the authority to the community
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
- 7 To develop and maintain a working knowledge of the authority's services, management arrangements, powers/duties, and constraints, and to develop good working relationships with relevant officers
8. To develop and maintain a working knowledge of other organisations and services which serve the Borough of Tamworth
9. To participate in the activities of any political group of which the councillor is a member
10. To maintain confidentiality in all relevant Council business

## **LEADER**

### **Purpose**

1. To provide effective political leadership and strategic direction for the Council.
2. To ensure effective Corporate Governance.
3. To provide effective stewardship of the Council.
4. To chair the Executive and ensure that it achieves its terms of reference.
5. To provide the policy framework and direction necessary to ensure that the Council delivers high quality, value for money services

### **Duties and Responsibilities**

1. To provide political leadership to the Council, take appropriate Executive action and propose the policy framework within which the Council will operate
2. To ensure effective Corporate Governance including working with opposition groups to seek to achieve where possible cross party cooperation
3. To appoint and lead the Executive and be responsible for the Council's corporate and resource strategy
4. To ensure that the Executive achieves its terms of reference both collectively and as individual portfolio holders
5. To ensure the effective integration of roles, responsibilities and functions within the Executive membership
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
7. To appoint Member Champions where considered appropriate in accordance with the Constitution
8. To provide reports to Council in accordance with the Constitution
9. As Leader, to be the key contact for outside organisations and the Council's Chief Executive and other Senior Officers
10. To be the voice of the Council and to positively promote the Council in the media.
11. To act as the political spokesperson for the Council
12. To promote the long term financial, business and economic stability and growth of the Borough
13. To encourage the highest standards of probity and corporate governance

### **Skills desired**

1. Good communication and interpersonal skills
2. The ability to analyse and grasp complex issues
3. A good understanding of how local, national and European government operates,
4. An understanding of the operation of the Council and the economic and social situation within Tamworth
5. Business and financial acumen, with the ability to understand and manage the Council's budget
6. Effective leadership skills
7. Excellent political knowledge and awareness
8. The ability to chair meetings and facilitate open discussion
9. The ability to work effectively with Council officers, the public, the media and outside organisations



## **DEPUTY LEADER**

### **Purpose**

1. To assist and work with the Leader to provide effective political leadership and strategic direction for the Council.
2. To assist the Leader with his other responsibilities such as ensuring effective Corporate Governance and Stewardship of the Council and to provide the policy framework and direction necessary to ensure the Council delivers high quality, value for money services.
3. To act in the absence of the Leader as appropriate.

### **Duties and Responsibilities**

1. To assist and work with the Leader in delivering his responsibilities to the Council
2. To deputise for the Leader in his absence from Council meetings and to deputise in the Leader's absence at Executive meetings
3. In the Leader's absence to carry out the requirements of his job profile so far as legally possible and permissible.
4. To carry out such other duties and undertake portfolio responsibility as delegated by the Leader
5. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.

### **Skills desired**

1. Good communication and interpersonal skills
2. To have the ability to analyse and grasp complex issues
3. A good understanding of how local, national and European government operates,
4. A clear understanding of the operation of the Council, and the economic and social situation within Tamworth
5. Business and financial acumen, including the ability to understand and manage the Council's budget
6. Effective leadership skills
7. Excellent political knowledge and awareness
8. The ability to chair meetings and facilitate open discussion
9. The ability to work effectively with Council officers, the public, the media and outside organisations

## **EXECUTIVE MEMBERS**

### **Purpose**

1. To provide collective and individual leadership as part of the Executive.
2. To undertake lead responsibility for allocated portfolios.
3. To contribute effectively towards the strategic direction of the Council.

### **Duties and Responsibilities**

1. To participate effectively as a Member of the Executive; taking joint responsibility with other Executive Members for all actions.
2. To exercise appropriately any delegated powers from the Leader
3. To participate in shaping and developing the policy and vision of the Council,
4. To act as the Lead Member for a particular portfolio as may be determined by the Leader, and in doing so, have regard to the overall collective responsibilities of the Executive and the Council's corporate policy objectives and championing the portfolio concerned within that strategic context, being aware of key budgetary issues relating to the portfolio
5. To build good working relationships with appropriate officers and work with them in developing policy or strategic issues prior to formal reporting.
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
7. To keep abreast of related developments and policies at national, regional and local level
8. To represent the Executive where appropriate at an Overview & Scrutiny Committee in connection with any matter that may be called in; and to attend O&S at their request in connection with any issues associated with the Executive Member portfolio that are being scrutinised.
9. To be aware of issues of importance to the community and other stakeholders concerning the portfolio are
10. To represent the Council on external bodies, as appointed, and feedback to the Executive any issues of relevance/importance.
11. To be available as appropriate for other Members to discuss any queries or matters of concern.
12. To positively promote the portfolio and where appropriate to act as the spokesperson with the media for the portfolio area.

### **Skills desired**

1. Good communication and interpersonal skills
2. Ability to analyse and grasp complex issues
3. An understanding of national and local government statutory and financial frameworks
4. An understanding of the Council, including the economic and social situation within Tamworth
5. The ability to understand the Council's budget especially in respect of the relevant portfolio
6. Leadership skills
7. Political knowledge and awareness
8. Ability to work effectively with Council officers, the public, the media and outside organisations
9. Ability to work as part of a team



## **CHAIR OF A COMMITTEE**

**General- to include Audit and Governance Committee and Governance Committee**

### **Purpose**

1. To provide leadership of and direction to the Committee.
2. To chair Committee meetings and ensure the Committee achieves its terms of reference.

### **Duties and responsibilities**

1. To encourage Committee members to obtain the necessary skills to contribute effectively to the work of the Committee and to work with officers to ensure the provision of necessary training
2. To endeavour to engage all members of the Committee in its work
3. To lead the Committee, in consultation with officers, to most effectively prioritise its Work load
4. To develop a constructive relationship with the relevant senior officers and their staff and with relevant portfolio holders
5. To be willing to learn about the professional disciplines and services relevant to the work of the Committee
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
7. To be available to Chair meetings and carry out other duties as Chair, allowing sufficient time to support the work of the Committee outside meetings
8. To Chair the committee in a fair, open and balanced manner in accordance with the procedures of the committee
9. To guide, with the assistance of officers, the committee to reach legally sound decisions based on the information presented to it
10. To provide and present a report concerning the Committees activities to Council at the council meeting in April each year or at any other time as may be requested

### **Skills desired**

1. Good communication and interpersonal skills
2. Leadership and Chairship skills
3. Project and time management skills
4. Ability to influence and work constructively with members, officers, the public, external advisors and outside organisations
5. Ability to work as part of a team

## **CHAIR OF A REGULATORY COMMITTEE**

### **Purpose**

1. To provide leadership and direction to the Committee.
2. To demonstrate to the public and to any applicants and objectors that there is fair and open decision making by or on behalf of the Committee.
4. To chair and manage Committee meetings and ensure the Committee achieves its terms of reference.

### **Duties and responsibilities**

1. To lead the Committee, in consultation with officers, in prioritising its work
2. To be available to chair meetings and carry out other Chair duties, allowing sufficient time to support the work of the Committee outside meetings
3. To encourage Committee members to obtain the skills to contribute the work of the Committee and to work with officers to ensure the provision of necessary training to members
4. To endeavour to engage all members of the Committee in Committee activities
5. To develop a constructive and effective relationship with relevant Chief Officers and their staff
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
7. To be willing to learn about the professional disciplines and services relevant to the work of the Committee
8. To Chair the committee in a fair, open and balanced manner in accordance with the procedures of the committee; and ensuring an appropriate and fair hearing to applicants and objectors
9. To guide, with the assistance of officers, the committee to reach legally sound decisions based on the information presented to it
10. To work with the Officers of the Council to ensure that the Council policies and procedures in relation to the Committees activities are up to date and applied correctly
11. To provide and present a report concerning the Committees activities to Council at the Council meeting in April each year or at any other time as may be requested

### **Skills desired**

1. Good communication and interpersonal skills
2. Leadership and excellent Chairship skills
3. Project and time management skills
4. Ability to influence and work constructively with members, officers, the public, external advisors and outside organisations
5. Ability to work as part of a team

## **OVERVIEW AND SCRUTINY COMMITTEE CHAIR**

### **Purpose**

1. To provide leadership of and direction to the Committee.
2. To chair Committee meetings and ensure the Committee achieves its terms of reference.

### **Duties and responsibilities**

1. To encourage Committee members to obtain the necessary skills to contribute effectively to the work of the Committee in carrying out the Scrutiny Role and to work with officers to ensure the provision of necessary training
2. To endeavour to engage all members of the Committee with the scrutiny process
3. To lead the Committee, in consultation with officers, to most effectively prioritise its Work load so as to ensure effective scrutiny, paying particular regard to the Forward Plan
4. To co-ordinate work with the other Overview and Scrutiny Committees, so as to ensure that the scrutiny and review work of the Committees is not duplicated by them; and to share learning
5. To develop a constructive relationship with the Executive, especially with relevant portfolio holders
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
7. To develop a constructive relationship with the Chief Officers and other senior officers in the areas that the Committee scrutinises
8. To develop a constructive relationship with the relevant senior officers and their staff and with relevant portfolio holders
9. To be available to Chair meetings and carry out other duties as Chair allowing sufficient time to support the work of the Committee outside meetings
10. To Chair the committee in a fair, open and balanced manner in accordance with the procedures of the committee
11. To provide and present a report concerning the Committees activities to Council at the Council meeting in April each year or at any other time as may be requested

### **Skills desired**

1. Good communication and interpersonal skills
2. Leadership and Chairship skills
3. Project and time management skills
4. Ability to influence and work constructively with members, officers, the public and outside organisations
5. Ability to work as part of a team

## **LEADER OF THE OPPOSITION**

### **Purpose**

1. To provide strong, clear political leadership for the main Opposition Group on the Council and act as main opposition spokesperson.
2. To promote good governance, member development, and discipline within the main Opposition Group and manage the work of members in the group.
3. To co-ordinate the participation of the Opposition Group in the business of the Council.

### **Duties and Responsibilities**

1. To provide constructive challenge of and comment upon the Council's vision, policies, strategies and the delivery of services
2. To provide strong, clear leadership in the development and co-ordination of credible alternative policies, strategies and service delivery; providing new ideas and alternative viewpoints to the council
3. To promote and support good governance of the Council and its affairs and the adherence by Opposition Group members to the Code of Conduct
4. To establish and represent the views of the Opposition Group on matters of council policy and priorities
5. To represent the Opposition Group on working parties and informal working groups
6. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.
7. To play an effective part in the work of the Councils Scrutiny and Overview Committees, liaising with Committee Chair as appropriate
8. To liaise with officers and other political groups as appropriate.

### **Skills desired**

1. Good communication and interpersonal skills
2. Ability to analyse and grasp complex issues
3. An understanding of national and local government statutory and financial frameworks
4. An understanding of the Council, including the economic and social situation within Tamworth
5. The ability to understand the Council's budget
6. Leadership skills
7. Political knowledge and awareness
8. Ability to work effectively with Council officers, the public, the media and outside organisations
9. Ability to work as part of a team

## **DEPUTY LEADER OF THE OPPOSITION**

### **Purpose**

To deputise for the Leader of the Opposition Group in his absence.

### **Duties and Responsibilities**

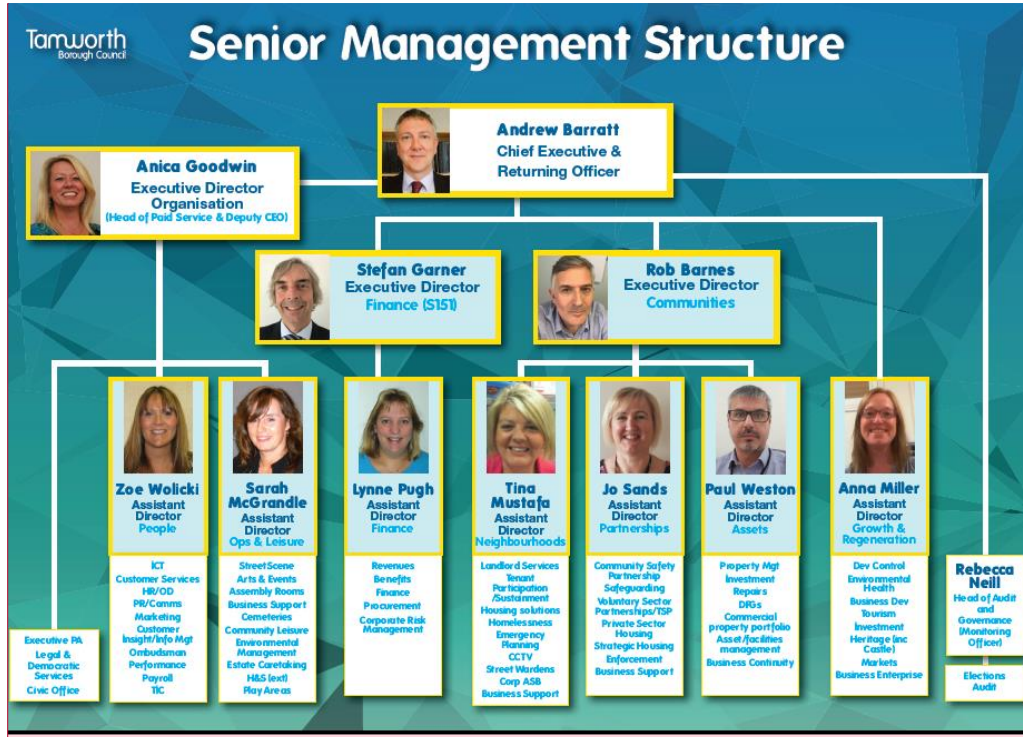
1. To assist and work with the Leader of the main Opposition Group
2. To act in the absence of the Leader of the main Opposition Group as appropriate
3. To fulfil the duties of the Leader of the Opposition in his or her absence
4. To assist the Leader of the Opposition in specific duties as required.
5. To maintain and fulfil the duties required under Data Protection legislation and ensure compliance with their personal obligations in this matter.

### **Skills desired**

1. Good communication and interpersonal skills
2. Ability to analyse and grasp complex issues
3. An understanding of national and local government statutory and financial frameworks
4. An understanding of the Council, including the economic and social situation within Tamworth
5. The ability to understand the Council's budget
6. Leadership skills
7. Political knowledge and awareness
8. Ability to work effectively with Council officers, the public, the media and outside organisations
9. Ability to work as part of a team



PART 7 - MANAGEMENT STRUCTURE



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