

# NON-CONFIDENTIAL



## **Borough of Tamworth**

1 July 2024

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 9TH JULY, 2024** at 6.10 pm in the **TOWN HALL, MARKET STREET, TAMWORTH**, 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 - 20)**

**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 Confer the Title of Honorary Alderman on Michael Oates**

On Tuesday 21<sup>st</sup> May 2024 it was resolved that, pursuant to section 249 (5) of the Local Government Act 1972 this Council does hereby confer the Title of Honorary Alderman of the Borough upon Mr Michael Oates in recognition of his eminent services to The Borough of Tamworth whilst he was a member of Tamworth Borough Council.

**7 Nomination of Honorary Alderman - Daniel Cook**

To consider conferring the title of Honorary Alderman on Daniel Cook under Section 249(1) of the Local Government Act 1972, in recognition of his services to the Council whilst he was a member of the Council, having served as a Councillor of the Borough of Tamworth for at least three consecutive terms.

**8 Nomination of Honorary Alderman - Robert Pritchard**

To consider conferring the title of Honorary Alderman on Robert Pritchard under Section 249(1) of the Local Government Act 1972, in recognition of his services to the Council whilst he was a member of the Council, having served as a Councillor of the Borough of Tamworth for at least three consecutive terms.

**9 Constitution & Scheme of Delegation Review (Pages 21 - 296)**

*(Report of the Leader/Monitoring Officer)*

**10 Code of Conduct review (Pages 297 - 340)**

*(Report of the Leader/Monitoring Officer)*

**11 Exclusion of the Press and Public**

To consider excluding the Press and Public from the meeting by passing the following resolution:-

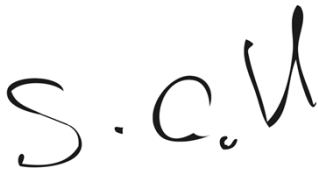
*“That in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012, and Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1&2 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public”*

At the time this agenda is published no representations have been received that this part of the meeting should be open to the public.

## **12 Honorary Freeman of the Borough (Individual) (Pages 341 - 350)**

*(Report of the Chair of the Nominations and Grants Committee)*

Yours faithfully



### **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.*

*If a member of the public is particularly concerned about being filmed, please contact a member of Democratic Services before selecting a seat.*

#### **FAQs**

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

Marmion House  
Lichfield Street  
Tamworth



## **MINUTES OF A MEETING OF THE COUNCIL HELD ON 21st MAY 2024**

**PRESENT:** Councillor J Harper (Mayor), Councillors D Maycock, C Adams, N Arkney, C Bain, B Clarke, L Clarke, M Clarke, G Coates, M Couchman, C Dean, M Bailey, R Claymore, T Clements, S Daniels, S Doyle, D Foster, H Hadley, T Jay, R Kingstone, K Norchi, J Oates, P Pallett, B Price, P Turner, L Smith, S Smith, N Statham, M Summers, J Wadrup, A Wells and L Wood

The following officers were present: Stephen Gabriel (Chief Executive), Nicola Hesketh (Monitoring Officer), Tracey Pointon (Legal Admin & Democratic Services Manager), Leanne Costello (Senior Scrutiny and Democratic Services Officer) and Laura Sandland (Democratic and Executive Support Officer)

### **1 APOLOGIES FOR ABSENCE**

There were none.

### **2 MAYOR'S CADET**

Sea Cadet Daniels Hayes was inaugurated as the Mayor's Cadet for 2024/2025

### **3 TO ELECT A MAYOR**

Councillor G Coates was Nominated as Mayor.

*(Moved by Councillor S Daniels and seconded by Councillor M Couchman)*

*Councillor Gareth Coates was declared Mayor of Tamworth 2024/25*

The Mayor, Councillor G Coates moved a motion to extend a vote of thanks for the outgoing Mayor Councillor John Harper, this motion was seconded by Cllr J Wadrup.

### **4 TO ELECT A DEPUTY MAYOR**

Councillor C Bain was nominated for the office of Deputy Mayor.

*(Moved by Councillor C Dean and seconded by Councillor L Wood)*

Councillor C Bain was elected Deputy Mayor of Tamworth 2024/25

## **5 TO ELECT THE LEADER OF THE COUNCIL**

Councillor C Dean was nominated as Leader of the Council.

*(Moved by Councillor D Foster and seconded by Councillor N Statham)*

Councillor D Dean was elected Leader of the Council

## **6 DECLARATIONS OF INTEREST**

Councillor J Oates declared a non-pecuniary interest in Item number 20 and stated that he would leave the meeting for the item.

## **7 TO RECEIVE THE MINUTES OF THE TWO PREVIOUS MEETINGS**

The Mayor highlighted that minute number 95 of the minutes of 19<sup>th</sup> of March should read:

1. The council commits to doing and sends officers to explore options for future delivery of a town centre location.

On this basis, the minutes of the meeting held on 19<sup>th</sup> March and 11<sup>th</sup> March 2024 were approved and signed as a correct record.

*(Moved by Councillor T Jay and seconded by Councillor C Dean)*

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

**The Mayor of Tamworth, Councillor G Coates made the following announcement**

First let me welcome the new councillors to council, I hope you enjoy your time on the council whatever roles you have over the next few years. To the returning councillors, hello again and I thank you for all the advice and support you gave me in my first 12 months as a councillor. I would like to see the same olive branch that was given to me, also give to the new councillors.

As many previous Mayors have said in the past, it is a great honour and privilege to be in this position. So, thank you to the councillors that have elected me as Mayor of Tamworth for the next 12 Months.

I was asked what I would like to do and accomplish in the next 12 months as Mayor, asking for the Assembly room to put Die Hard back on at Christmas time wasn't the correct answer apparently.

So as there are no local borough elections at the end of my time as Mayor, I would hope and like to see all in this chamber working 100% for the residents of Tamworth, not using local issues to make political statements that only benefit them and not the residents of our town. Let's show the people of Tamworth that we are listening to them and working for them.

As you can tell I like my food, and I know we have a lot of food festivals in the town, I feel it would be nice if we could hold one in the town centre not on the castle grounds but around the market areas. Encouraging more people to spend time in our town centre.

I also want to promote all the positive things that Tamworth has to offer, from the events, businesses and local charities that do great work in our communities. Tamworth has so much to offer not just to the residents but the rest of the country. Tamworth FC now in the National League, making Tamworth an away day destination to a larger group of football fans. We have the Tamworth Town ale Trail that takes you around many great pubs we have in the town,

I will be promoting other businesses around Tamworth, as a councillor not only should we be sharing the many events that happen in Tamworth but the many and varied businesses that we have here.

Finally, a BIG thank you to my wife Sally, my daughters Alex and Katie, who have supported so much with their help and also the residents of Spital ward who voted for me in 2023, which has now led me today becoming Tamworth's 143rd Mayor.

**The Leader of the Council made the following announcement,**

I would like to start by congratulating you - and wishing you and Sally an enjoyable and successful year as Tamworth's first citizens. I know you will be a fabulous ambassador for our town.

Thank you also to John Harper for the work you have done over the last year. And we wish John and Maureen well in your retirement from civic duties. I hope you will take some time for yourself now John and we look forward to seeing you both around the town.

I would like to express my thanks to the those former Cllrs not here today whether they retired or were unsuccessful on 2 May, it is important to acknowledge the contribution you have all made over what has for some been 20 years' service. Your experience will be missed.

Also, congratulations to our new Chief Executive, Stephen Gabriel as he attends his first Annual Council meeting. We look forward to working with you as we all move towards improving the town and the quality of services we provide.

So, my next thanks and probably most important go to the people of Tamworth who have put their trust in our local labour party to lead the town through what are, we know, going to be some difficult, challenging times. We are committed to living up to the faith people have shown in us. We feel honoured to be given the opportunity to serve our Town.

We have been listening to local people and they want change. As we lead the Council going forward, we will continue to listen and put the needs and views of the local people at the heart of everything we do, making sure your voices are heard.

The last year has been interesting with its challenges and successes. We had an amazing set of results on 2 May and we now have an opportunity after 20 years to make real different to the lives of local people, here in Tamworth. We take over at a challenging time for the country and our Town. As a result of 14 years of national Tory government, local authorities find themselves with extremely tight budgets.

But whatever the reason for our current situation we need to work together, all the councillors in this room, working hard for all the people of Tamworth. Our residents, businesses and other stakeholders.

And I feel for most of the last year we have worked well together, as I said at the beginning of last year, our group is here to make a difference and we will not oppose things for the sake of it. As we take over control of the council, we still want to work collegiately with everyone, whatever party. We all want what is best for Tamworth, that's why we're here.

Because it is going to be really challenging over the next few years, we must remain focused on our job and why we all came into politics. It's about listening to people of Tamworth and delivering better, more responsive services for them, having ambition for our town and a vision to improve things for everyone. And making sure we bring people with us on that journey. It's not about our own importance or status as councillors and our own egos.

In order to achieve the change, we want we will need to work with a variety of different partners, whether they be businesses, local community groups, charities and other authorities, BUT, most importantly the people of Tamworth.

We will do things differently and make different choices. We will bring a new collaborative and co-operative politics to Tamworth, for the benefit of everyone. We want to bring our Town together for a fresh start.

We also want to bring change to the way we do politics here in Tamworth. People are not impressed with the Punch and Judy style of party politics that we see at prime minister's questions.

We all need to be the grown-ups. We need to work as collaboratively and co-operatively with everyone as much as possible, and that includes everyone in this room. So, where we agree with other parties on specific issues, we will work with them for the common good.

This last year has shown most of us want the same outcome. But we have different ways of achieving it and different priorities. Some people will call me naive, but I believe we can work more constructively together and do things



differently here in Tamworth, especially if our focus is always putting the town first. So, I want to be positive about the future despite the challenges we face.

And as we go forward our priorities will continue to be the issues the voters elected us on:

- Providing face to face services for local people
- Investing in creating a vibrant, regenerated town centre.
- Cleaning up our streets and cracking down on fly tipping - making sure there are no forgotten areas or estates.
- Tackling crime and anti-social behaviour
- Supporting people with the costing of living in whatever way we can

We are ambitious for our own Town's future. We can and will deliver the fresh start Tamworth deserves. And we will ensure that wherever possible, everyone is informed and feels included.

I would like to finish on a personal note. In acknowledging the role, I take on today I could not let it pass without paying tribute to my friend and mentor, the late Terry Dix who is the reason I became a councillor back in 2001. Terry always gave me the confidence and support to believe in myself. And I owe this success to him. Thank you, Terry.

Thank you for allowing me to speak Mr Mayor, I look forward to the year ahead. The hard work starts now.

## 9 QUESTION TIME:

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

**Under Procedure Rule No 10, Ron Brown, of Tamworth will ask the Leader of the Labour Party, Councillor C Dean, the following question:-**

By which date will this new controlling Group publish its own itemised Plan, including measurement criteria and delivery timescales, for changing things for the better?

**Answer:-**

As you can imagine we are still in the transition stage with Labour only taking control this evening, but as I have said earlier in my address to the council we will be giving priority to the pledges that we were elected on. We know that people want to see change that was reflected in the voting on 2<sup>nd</sup> May. But it would be wrong of me to put any timescales on projects at this time we will need to meet with officers to find a way forward to implement the changes we all want. But I can confirm that our group as already had meetings start this process and we will work with officers to develop the Corporate Plan.

**QUESTIONS FROM MEMBERS OF THE PUBLIC NO. 2**

**Under Procedure Rule No 10, Ron Brown, of Tamworth will ask the Leader of the Labour Party, Councillor C Dean, the following question:-**

Does the majority Group have any plan to migrate the Public Survey Process of various Council-controlled topics away from inbound, unpublished, posted, or emailed opinions and towards public examination and dialogue on Social Media, such as Facebook, where very many more opinions can be expected?

**Answer:-**

Thank you for your question again.

We engage with customers in many ways, formal surveys are just one way we understand how people feel, but we also engage with people face to face such as through our tenants' groups and councillors through their surgeries and by talking to people when they attend our events, shows, and receive a direct service from us.

Council services closely monitor information and comments on social media to shape how services are delivered, and we also use these to shape communications going forward. For example, people were sharing they didn't know enough about what's happening in the town centre, so we've installed information on our hoarding, increased information on social media and shared information with the local press.

Council services are delivering the priorities of the administration, and now I and my new cabinet are here as a new administration, and we will shape new priorities for staff to deliver. I and my fellow councillors welcome feedback to us from residents; we use this information to make decisions about council services.

**Supplementary**

What are the timescales envisaged for our Council to actually begin polling resident's opinions using social media so that all can be seen participated in and measured in terms of both the Council's and residents' satisfaction with respect to time.

**Answer**

I can say that this is something we have talked about a lot as a group about the transparency about how we get information out to members of the public so it will be something I will be taking up with our communications team and we will look to go forward to see what else that we can do if there are any other ways that we should be engaging with people. But I will go back to my original statement that tonight is the start, I can't give you any time frames and what we will do and how we will do things. Social media changes all the time so we will look at how the best ways that we can get our message out and engage people because we are very keen that the engagement is there.

**10 APPOINTMENT OF CABINET AND ALLOCATION OF RESPONSIBILITIES**

The Membership of Cabinet for 2024/2025 was received and circulated as below:

<b>Name</b>	<b>Cabinet role</b>
<b>Carol Dean</b>	Leader and Operations, Finance and Cost of Living.
<b>Dave Foster</b>	Deputy Leader and Environmental Sustainability, Waste and Recycling
<b>Nova Arkney</b>	Infrastructure, Heritage and Local Economy
<b>Ben Clarke</b>	Housing, Homelessness & Planning
<b>Sarah Daniels</b>	Cooperative Council, Community Partnerships and Anti-Social Behaviour
<b>Lewis Smith</b>	People Services, Engagement and Leisure

**11 APPOINTMENT OF COMMITTEES**

Membership of Committees for 2024/2025 is as follows:

**Cabinet**  
Councillors

C Dean  
D Foster

B Clarke  
N Arkney  
S Daniels  
L Smith

**Appointments and Staffing Committee**

Councillors

C Dean  
N Arkney  
B Clarke  
T Jay  
J Oates

**Audit and Governance Committee**

Councillors

C Adams  
C Bain  
M Couchman  
A Wells  
P Turner  
S Doyle  
J Wadrup

**Planning Committee**

Councillors

L Wood  
C Adams  
M Clarke  
G Coates  
D Foster  
K Norchi  
P Pallett  
L Smith  
R Claymore  
S Smith  
P Turner  
M Summers  
R Kingstone

**Licensing Committee**

Councillors

B Price  
C Bain  
B Clarke

L Clarke  
M Clarke  
S Daniels  
P Pallet  
N Statham  
L Wood  
M Summers  
S Smith  
T Clements  
J Wadrup

**Nominations & Grants**

Councillors

A Wells  
N Arkney  
C Bain  
C Dean  
R Claymore  
T Clements  
M Bailey

**Infrastructure, Safety and Growth Scrutiny Committee**

Councillors

M Couchman  
C Adams  
L Clarke  
M Clarke  
N Statham  
L Wood  
B Price  
M Bailey  
J Oates

**Corporate Scrutiny Committee**

Councillors

S Smith  
G Coates  
M Couchman  
H Hadley  
K Norchi  
A Wells  
B Price  
T Jay  
M Summers

**Health and Wellbeing Scrutiny Committee**

Councillors

C Bain  
H Hadley  
P Pallett  
N Statham  
A Wells  
R Claymore  
M Bailey  
P Turner  
S Doyle

**Chief Officer Conduct Committee**

Councillors

D Foster  
L Clarke  
K Norchi  
T Clements  
R Kingstone

**Statutory Officer Conduct Committee**

Councillors

M Clarke  
H Hadley  
D Foster  
T Clements  
R Kingstone

*(Moved by Councillor C Dean and Seconded by Councillor T Jay)*

**12 APPOINTMENT OF COMMITTEE CHAIRS**

**Appointments and Staffing Committee**

Councillor Carol Dean

**Audit and Governance Committee**

Councillor Craig Adams

**Licensing Committee**

Councillor Ben Price

**Planning Committee**

Councillor Lee Wood

**Corporate Scrutiny Committee**

Councillor Samuel Smith

**Health and Wellbeing Scrutiny Committee**

Councillor Chris Bain

**Infrastructure, Safety and Growth Scrutiny Committee**

Marion Couchman

**Nominations & Grants Committee**

Andy Wells

**Chief Officer Conduct Committee**

Dave Foster

**Statutory Officer Conduct Committee**

Margaret Clarke

*(Moved en Bloc by Councillor C Dean and seconded by Councillor B Clarke)*

**13 APPOINTMENT TO OUTSIDE BODIES**

<b>Outside Body</b>	<b>Name</b>
Birmingham LEP	Andy Wells
Building Control Shared Service Board	Ben Clarke
Citizens Advice Mid Mercia Management Committee	Pat Pallet Carol Dean
Civil Emergency Committee	Carol Dean Dave Foster Ben Clarke
Corporate Parenting Panel	Sarah Daniels
Destination Tamworth	Nova Arkney Margaret Clarke
Dorcas Management Committee	Andy Wells
Friends of Wiggington Park	Pat Pallett Marion Couchman
Greater Birmingham and Solihull Local Enterprise Partnership - Joint Scrutiny Membership	Sarah Daniels
Health & Safety Shared Service Board	Chris Bain
High Rise Social Club	Nat Statham Lee Wood
Local Government Association, General Assembly	Carol Dean
Rawlett Trust	Gareth Coates
Sons of Rest	Ken Norchi
St Peters Church Management Committee	Marion Couchman
Staffordshire County Council - Health & Care Overview and Scrutiny Committee	Chris Bain
Staffordshire Joint Waste Management Board	Dave Foster
Staffordshire Pension Fund Governance - Consultative Forum	Carol Dean
Staffordshire Planning Forum	Ben Clarke Lee Wood
Staffordshire Police and Crime Commissioner Panel	Carol Dean
Stoke-On-Trent & Staffordshire Local Enterprise Partnership	Carol Dean
Stoke-On-Trent & Staffordshire Local Enterprise Partnership Scrutiny Panel	Carol Dean
Support Staffordshire	Sarah Daniels Helen Hadley
Tamworth Cornerstone Housing Association	Carol Dean Nat Statham
Tamworth Municipal Charities	Gareth Coates Sarah Daniels
Tamworth Strategic Partnership	Carol Dean
Tamworth Twinning Association	Lewis Smith Sarah Daniels Margaret Clarke
Waste Management Shared Service Board	Dave Foster Gareth Coates
West Midlands Combined Authority - Housing & Land Delivery Board	Ben Clarke
West Midlands Combined Authority Audit & Risk Assurance Committee	Carol Dean
West Midlands Combined Authority Board	Carol Dean Dave Foster
West Midlands Combined Authority Scrutiny Panel (WMCA)	Carol Dean

*(Moved by Councillor C Dean and seconded by Councillor T Jay)*

**14 THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION REGULATIONS) 2012**



The Leader of the Council informed members that The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 specifies and requires inter alia under Regulation 19 that the executive leader must submit a report on a regular basis to Council containing details of particulars of each urgent executive decision together with a summary of the matters in respect of which the decision was made.

**Resolved: that Council**

Endorsed the Annual Executive Arrangements Report.

*(Moved by Councillor C Dean and seconded by Councillor L Wood)*

**15 ANNUAL REPORT OF AUDIT & GOVERNANCE COMMITTEE 2023-24**

Annual Report of Audit & Governance Committee 2023-24 was presented to Council.

**Resolved that Council:**

Endorsed the annual Report of the Audit & Governance committee 2023-2024

*(Moved by Councillor B Price and seconded by Councillor L Smith)*

**16 ANNUAL REPORT OF THE SCRUTINY COMMITTEES 2023-24**

The Annual Report of the Scrutiny Committees 2023-24 was presented to full Council. The report updated Council on the activities of the Corporate Scrutiny, the Health & Wellbeing Scrutiny and Infrastructure Safety & Growth Scrutiny Committees over the year 2023/24.

**Resolved that Council:**

Endorsed the recommendations as set out in each of the attached annual reports, appendices 2-4.

*(Moved by Councillor C Dean and seconded by Councillor C Bain)*

**17 CALENDAR OF MEETINGS - 2024-25**

The Calendar of Meetings for 2024/25 was received and circulated at the meeting.

**Resolved that Members:**

Accepted the Calendar of Meetings for 2024/2025

*(Moved by Councillor C Dean and seconded by Councillor L Wood)*

**18 EXCLUSION OF THE PRESS AND PUBLIC**

To consider excluding the Press and Public from the meeting by passing the following resolution:-

“That in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012, and Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 2 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public” At the time this agenda is published no representations have been received that this part of the meeting should be open to the public.”

At the time this agenda is published no representations have been received that this part of the meeting should be open to the public.

*(Moved by Councillor B Price and seconded by Councillor L Smith)*

**19 NOMINATION RECEIVED - HONORARY FREEMAN OF THE BOROUGH (INDIVIDUAL)**

Report of the Chairman of the Nominations and Grants Committee, to ask council to consider the Nomination received, considered, and supported by the Nominations and Grants Committee.

**Resolved that Council:**

1. considered the recommendation from the Nominations and Grants Committee and;
2. Agreed that the Nomination was worthy of an award under

S249 of the Local Government Act 1972;

*(Moved by Councillor T Jay and seconded by Councillor T Clements)*

A motion was moved that the nomination should include a second person who was also rendered worthy of the award

*(Moved by Councillor R Kingstone and seconded by Councillor S Doyle)*

This motion was agreed by a unanimous vote.

## **20 NOMINATION FOR HONORARY ALDERMAN**

Councillor J Oates declared a non-pecuniary interest and left the meeting.

Report of the Chair of the Nominations and Grants Committee to ask council to consider the nomination received, considered, and supported by the Nominations and Grants Committee.

### **Resolved that Council:**

1. Considered the Nomination and;
2. Agreed that the Nomination is worthy of an award under S249 of the Local Government Act 1972

*(Moved by Councillor T Jay and seconded by Councillor T Clements)*

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The Mayor

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Tuesday, 9 July 2024

**Report of the Leader of the Council / Monitoring Officer****Constitution & Scheme of Delegation Review****Exempt Information**

None

**Purpose**

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

**Recommendations**

**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 by an all-member group which met on 6 December 2023.

The Audit & Governance Committee considered the document at their [February 2024](#) meeting and approved that it be submitted to full Council for final approval.

A summary of the changes are highlighted in **Appendix 1** with a tabled summary available at **Appendix 2**.

### **Resource Implications**

There are no resource implications arising from this report.

### **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.

It should be noted that the Constitution has not been subject to a complete constitution review, with only the proposed changes and amendments to specific parts subject to legal consideration. Continuing review of the constitution should be maintained to ensure compliance with the Council's duties

### **Equalities Implications**

There are no equality issues arising from this report.

Copies of the Constitution documents in alternative formats and languages can be made available upon request.

### **Environment and Sustainability Implications (including climate change)**

There are no sustainability issues arising from this report.

### **Background Information**

None

### **Report Author**

Nicola Hesketh – Monitoring Officer

### **Appendices**

**Appendix 1** - Proposed Constitution and Scheme of Delegation

**Appendix 2** - Summary of changes table

# TAMWORTH BOROUGH COUNCIL



## CONSTITUTION

As approved at the meeting of the Council on **20<sup>th</sup> Edition** \*\*\*\* **2024**

DRAFT



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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 and Grants 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 be referred to as the Executive Cabinet) 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.

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 and Grants 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;
- 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;
- 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 Customer Services the main switchboard on telephone 01827 709709 or by emailing [enquiries@tamworth.gov.uk](mailto:enquiries@tamworth.gov.uk).

Item	Page
<b>2 Part 2 - Articles of the Constitution</b>	
<b>2.1 Article 1 – The Constitution</b>	
<b>2.1.1 Powers of the Council</b>	
	The Council will exercise all its powers and duties in accordance with the law and this Constitution.
<b>2.1.2 The Constitution</b>	
	This Constitution, and all its appendices, is the Constitution of Tamworth Borough Council.
<b>2.1.3 Purpose of the Constitution</b>	
	The purpose of the Constitution is to:
	<ul style="list-style-type: none"><li>• enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;</li><li>• support the active involvement of citizens in the process of local authority decision-making;</li><li>• help councillors represent their constituents more effectively;</li><li>• enable decisions to be taken efficiently and effectively;</li><li>• create a powerful and effective means of holding decision-makers to public account;</li><li>• ensure that no one will review or scrutinise a decision in which they were directly involved;</li><li>• ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and</li><li>• provide a means of improving the delivery of services to the community.</li></ul>
<b>2.1.4 Interpretation and Review of the Constitution</b>	
	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.

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2.2	<b>Article 2 – Members of the Council</b>
2.2.1	<b>Composition and eligibility</b>
(a)	<b>Composition.</b> 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)	<b>Eligibility.</b> Only registered voters of the borough; or those living or working there, or you have occupied as owner or tenant any land or other premises in the borough local authority area during the whole of the 12 months before the day of your nomination and the day of election will be eligible to hold the office of councillor.
2.2.2	<b>Election and terms of councillors</b>
(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	<b>Roles and functions of all councillors</b>
(a)	<b>Key roles.</b> 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 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;

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<ul style="list-style-type: none"> <li>(vi) be available to represent the Council on other bodies;</li> <li>(vii) maintain the highest standards of conduct and ethics; and</li> <li>(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.</li> </ul>	
<p>(b) <b>Rights and duties</b></p> <ul style="list-style-type: none"> <li>(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.</li> <li>(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.</li> <li>(iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.</li> <li>(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.</li> <li>(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 matter which is relevant to the functions of the committee (except for excluded matters as defined in the Local Government Act 2000, as amended).</li> </ul>	
<p>2.2.4 <b>Conduct</b></p> <p>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.</p>	
<p>2.2.5 <b>Allowances</b></p> <p>Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.</p>	

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) Attend and report on meetings of the Executive except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.
  - (iii) Find out from the Forward Plan what key decisions will be taken by the Executive and when.
  - (iv) See reports and background papers, unless these contain confidential or exempt information and any records of decisions made by the Council and the Executive.
  - (v) Inspect the Council’s accounts and make their views known to the external auditor.
  - (vi) Seek 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) The Council itself under its comment’s compliments and complaints scheme.
  - (ii) The **Local Government** Ombudsman (**normally** after using the Council’s own complaints scheme.
  - (iii) The Housing Ombudsman.



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- (iv) The **Monitoring Officer** 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** means the Budget and the following plans and strategies:-

- The Council’s Procedure Rules as adopted pursuant to this Constitution;
- Pay Policy Statement;
- Corporate Capital 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 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

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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) 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) 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;	
(o) appointing Independent Persons; and	
(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:

- (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 9F and 9FA 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 style="background-color: yellow;">The County Council is entitled to appoint one of its members to the [relevant Borough/District Overview &amp; Scrutiny Committee] in relation to health matters</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> <p style="text-align: center;">-</p> <p style="background-color: yellow;">The Council has agreed a Code of Joint Working between the Borough Council and Staffordshire County Council in relation to Overview and Scrutiny of health matters.</p> <p>In accordance with the agreed code:</p> <ul style="list-style-type: none"> <li>• the County Council shall discharge the overview and scrutiny function under the Health and Social Care Act 2001 and subsequent guidance including the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.</li> <li>• the [Borough/District] Chairman of the [relevant Overview &amp; Scrutiny Committee] Committee will be appointed to Staffordshire County Council’s Health and Care Overview &amp; Scrutiny Committee.</li> </ul> <ul style="list-style-type: none"> <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 relevant to the committee’s scope, as may be required in relation to the performance of the Council, governance, financial management and</p>

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<p>Infrastructure, Safety and Growth Scrutiny (The Committee shall comprise 9 members of the Council)</p>	<p>discharge of statutory functions.</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, with a focus on:-</p> <ul style="list-style-type: none"> <li>• Infrastructure</li> <li>• Education</li> <li>• Employment/Inward Investment</li> <li>• Town Centre</li> <li>• Open Space and Play</li> <li>• Public Space Protection Orders</li> </ul> <p>Statutory Crime and Disorder obligation; the Committee shall act as the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006 and may co-opt additional members subject to the Crime and Disorder Overview and Scrutiny) Regulations 2009.</p> <p>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.</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> <p>The Committee shall review and scrutinise matters relating to: -</p> <ul style="list-style-type: none"> <li>• Forward Plan</li> <li>• Quarterly performance reports</li> <li>• Corporate plan</li> <li>• Major Council led projects</li> <li>• Investment Strategy</li> <li>• HRA function</li> <li>• Bi-annually review and scrutinise matters relating to the Local Authority Trading</li> </ul>

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	<p>Company's activities and performance.</p> <p>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.</p>
<p>Budget Review Joint Scrutiny Committee</p> <p>The Committees membership includes all non-Executive members of the Council</p>	<p>The Committee meets up to twice a year to consider the budget proposals being put forward by the Executive and may make comments and recommendations back to the Executive on their budget proposals.</p>
<p>For All Committees</p>	<p>All Committees will consider the following matters as they carry out their primary functions</p> <ul style="list-style-type: none"> <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;
- (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;
- (c) prepare an annual scrutiny work plan and make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- (d) liaise regularly with each other to ensure that there is no duplication between them in respect of scrutiny and review activity;
- (e) consider any matter affecting the area or its inhabitants; and
- (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;



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<ul style="list-style-type: none"> <li>(g) appoint Task and Finish Groups as and when required. 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.</li> </ul>	
<p>2.6.3     <b>Specific functions</b></p> <ul style="list-style-type: none"> <li>(a)     <b>Policy development and review.</b> Overview and scrutiny committees and sub-committees may:</li> <li>(b)     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; <ul style="list-style-type: none"> <li>(i)     conduct research, community and other consultation in the analysis of policy issues and possible options;</li> <li>(ii)    consider and implement mechanisms to encourage and enhance community participation in the development of policy options;</li> <li>(iii)   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</li> <li>(iv)    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.</li> </ul> </li> <li>(c)     <b>Scrutiny.</b> Overview and scrutiny committees and sub-committees may: <ul style="list-style-type: none"> <li>(i)     review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;</li> <li>(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;</li> <li>(iii)   make recommendations to the Executive and Council arising from the outcome of the scrutiny process;</li> <li>(iv)    review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting</li> </ul> </li> </ul>	

them to address the overview and scrutiny committee and local people about their activities and performance.

- (d) **Finance.**  
Overview and scrutiny committees and sub-committees may exercise overall responsibility for any finances that may be made available to them.
- (e) **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.

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<b>2.7 Article 7 – The Executive</b>	
2.7.1 <b>Role</b>	
	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 <b>Form and composition</b>	
	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 <b>Leader</b>	
	The Leader will be a councillor elected to the position of Leader by the Council. 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 <b>The Leader will</b>	
	(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 <b>Other Executive members</b>	
	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.

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2.7.6 <b>Proceedings of the Executive</b>	
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 <b>Responsibility for functions</b>	
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 <b>Member Champions</b>	
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.	
<ul style="list-style-type: none"><li>• Champions are expected to become very knowledgeable on their issue and report to Council, Executive, and relevant committees on their subject as required.</li><li>• They have no authority to decide Council actions, policy or direct to staff to act on their issue.</li><li>• All policy and decision making authority is the exclusive role of the Executive.</li><li>• A champion cannot be a Tamworth Borough Council Executive member, Scrutiny committee Chair, Deputy Mayor or Mayor.</li></ul>	
A champion will:-	
<ul style="list-style-type: none"><li>• Act as a lead person to gather, collect and research an issue on behalf of the Executive;</li><li>• Represent the Council, if authorised by the Executive, at relevant internal or external events and or meetings;</li><li>• Engage external partners and agencies on the issue if authorised by the Executive;</li></ul>	

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<ul style="list-style-type: none"> <li>• Engage the public on the issue if authorised by the Executive;</li> <li>• Act as a project spokesperson or council representative on a body group, such as youth council, if required by the Executive;</li> <li>• Engage external agencies in the course of researching or investigating an issue or subject.</li> </ul>	
<b>2.8 Article 8 – Regulatory Committees</b>	
<b>2.8.1 Regulatory Committees</b>	
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).	
<b>2.8.2 Planning Committee</b>	
See Schedule 16 – Local Protocol for Councillors and Officers Dealing with Planning Matters.	
<b>2.8.3 Licensing Committee</b>	
Under the Licensing Act 2003 and the Gambling Act 2005, Licensing Sub Committees will be formed in accordance with the <b>current Statement of Licensing Policy and Gambling Statement of Principles</b>	
The 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).	
<b>2.9 Article 9 – Audit &amp; Governance Committee</b>	
<b>2.9.1</b> The Council will establish an Audit & Governance Committee.	
<b>2.9.2 Composition</b>	
(a) <b>Membership.</b> The Audit & Governance Committee will be composed of at least seven councillors who are not members of the Executive or the Chair of any Scrutiny Committee.	
(b) <b>Independent members.</b> 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) <b>Chairing the Committee.</b> The Chair and Vice-Chair will be appointed in accordance with Council Procedure Rules.	

2.9.3 **Role and Function**

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

(a) **Audit Activity**

- (i) Receive, but not direct, internal audit’s strategy and audit plan;
- (ii) Consider reports dealing with the management and performance of Internal Audit;
- (iii) Consider the **Audit Managers** 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-

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blowing, complaints handling, RIPA and Ombudsman investigations.	
<b>(c) Accounts</b>	
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	
<b>(d) Reports to Council</b>	
The Chair of the Audit & Governance Committee will provide an annual report of the Committee's activities to Council.	
<b>(e) Delegated Powers</b>	
The Committee is empowered to deal with the functions detailed above.	
<b>(f) Standards of Conduct</b>	
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.	

**2.10 Article 10 – Nominations and Grants Committee**

2.10.1 The Council will establish a Nominations and Grants Committee.

**2.10.2 Composition**

- (a) **Membership.** The nominations and Grant 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.** Independent persons will be entitled to vote at meetings.

**2.10.3 Role and Function**

The Nominations and Grants 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) Consider award of Tamworth Borough Council grants funding.
- (d) Maintain a publicly accessible application process for the two above honours;
- (e) Refer any approved applications to Full Council for approval;
- (f) 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;
- (g) Seek nominations from the Tamworth public, persons worthy of public recognition for their service or work for the Borough of Tamworth;
- (h) Bi-annually, promote by way of the Council’s media, details of the operation and function of the Committee.



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2.11	<b>Article 11 – Area Committees and Forums</b>
2.11.1	<b>Area Committees and Forums</b>
	The Council may appoint area committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.
2.12	<b>Advisory Boards</b>
2.12.1	<b>Housing &amp; Homelessness Advisory Board</b>
2.12.2	The role of the board is to act as an advisory board to The Cabinet in relation to the development, implementation, monitoring, evaluation, and review of housing strategies and policies and impact on Tenants and Leaseholders
2.12.3	The board shall comprise no fewer than 5 members of the Council and 2 independent members from the Tenancy Consultative Group.
2.12.4	The membership will consist of the Leader(s) (or their representative) from all opposition parties together with any other independent councillors; chaired by the Portfolio Holder of Housing & Planning: together with two tenant and leaseholder representatives from the Tenant Consultative Group
2.13	<b>Article 12 - Joint Arrangement</b>
2.13.1	<b>Arrangements to promote well being</b>
	The Council, in respect of Non-Executive functions, and the Executive in respect of Executive functions, 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.
2.13.2	<b>Joint Arrangements</b>
	(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.

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<ul style="list-style-type: none"> <li>(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.</li> <li>(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.</li> <li>(d) The Executive may appoint members to a Joint Committee from outside the Executive in the following circumstances:               <ul style="list-style-type: none"> <li>(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</li> <li>(ii) the Joint Committee is discharging a function in relation to five or more authorities;</li> <li>(iii) the function which the Joint Committee is discharging is a function which is required by statute to be discharged by a Joint Committee;</li> <li>(iv) political balance requirements do not apply to such appointments.</li> </ul> </li> <li>(e) Details of any joint arrangements including delegations to Joint Committees will be found in Part 3 of this Constitution.</li> </ul>	
<p>2.13.3      <b>Access to information</b></p> <p>The Access to Information Rules in Part 4 of this Constitution will apply.</p>	
<p>2.13.4      <b>Delegation to and from other local authorities</b></p> <ul style="list-style-type: none"> <li>(a) The Council may delegate functions to another local authority or, in certain circumstances, the Executive of another local authority.</li> <li>(b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.</li> <li>(c) The decision whether or not to accept or refuse such a delegation from another local authority shall be reserved to the Council meeting.</li> </ul>	

2.13.5            **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.

2.14            **Article 13 – Officers**

2.14.1            **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 – Deputy Chief Executive)	Organisation (Head of Paid Service &
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
Information Governance Manager	Monitoring Officer
Executive Director – Finance	Section 151 Officer

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	Such posts will have the functions described in Article 12.14.2 – 12.14.4 below.
	(d) <b>Structure.</b> 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.
2.14.2	<b>Functions of the Head of Paid Service</b>
	(a) <b>Discharge of functions by the Council.</b> 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) <b>Restrictions on functions.</b> The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.
2.14.3	<b>Functions of the Monitoring Officer (to be exercised after consultation with the Chief Executive)</b>
	(a) <b>Maintaining the Constitution.</b> 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) <b>Ensuring lawfulness and fairness of decision making.</b> 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) <b>Supporting the Audit &amp; Governance Committee.</b> The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the relevant committee.
	(d) <b>Conducting investigations or other action.</b> 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) <b>Proper officer for access to information.</b> 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

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	advise upon issues relating to confidential and exempt information.
(f)	<b>Advising whether Executive decisions are within the Budget and Policy Framework.</b> The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.
(g)	<b>Providing advice.</b> 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)	<b>Restrictions on posts.</b> The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.
2.14.4	<b>Functions of the Section 151 Officer (to be exercised after consultation with the Chief Executive)</b>
(a)	<b>Ensuring lawfulness and financial prudence of decision making.</b> 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)	<b>Administration of financial affairs.</b> The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
(c)	<b>Contributing to corporate management.</b> The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
(d)	<b>Providing advice.</b> 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)	<b>Give financial information.</b> The Section 151 Officer will provide financial information to the media, members of the public and the community.
2.14.5	<b>Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer</b>

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.

**2.14.6 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.

**2.14.7 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.

**2.15 Article 14 – Decision Making**

**2.15.1 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.

**2.15.2 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.

**2.15.3 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.

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<ul style="list-style-type: none"> <li>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.</li> <li>a) Key decisions are taken by the Executive:-               <ul style="list-style-type: none"> <li>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</li> <li>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;</li> <li>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.</li> </ul> </li> </ul>	
<b>2.15.4 Decision making by the full Council</b>	
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.	
<b>2.15.5 Decision making by the Executive</b>	
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.	
<b>2.15.6 Decision making by overview and scrutiny committees</b>	
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.	
<b>2.15.7 Decision making by other committees and sub-committees established by the Council</b>	

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.

**2.15.8 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.



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2.16	<b>Article 15 – Finance, Contracts and Legal Matters</b>
2.16.1	<b>Financial management</b>
	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.
2.16.2	<b>Contracts</b>
	Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.
2.16.3	<b>Legal proceedings</b>
	The 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 consider that such action is necessary to protect the Council’s interests.
2.16.4	<b>Authentication of documents</b>
	Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Executive Director or other person authorised by them, 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.
	Any document determined by the 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.
2.16.5	<b>Common Seal of the Council</b>
	The Common Seal of the Council will be kept in a safe place in the custody of the <b>Legal, Admin &amp; Democratic Services Manager</b> . 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 Chief Executive should be sealed.
2.16.6	<b>Affixing of the Common Seal</b>
	The Common Seal shall be affixed by the Chief Executive, or some other person authorised by the Chief Executive.
2.16.7	<b>Attesting to the Affixing of the Common Seal</b>

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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.

2.17      **Article 16 – Review and Revision of the Constitution**

2.17.1    **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.

2.17.2    **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.

2.18 **Article 17 – Suspension, Interpretation and Publication of the Constitution**

2.18.1 **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.

2.18.2 **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.

2.18.3 **Publication**

The Monitoring Officer will ensure that a copy of this constitution is published on the Council’s website and available for inspection at the council offices at Marmion House and can be purchased by members of the local press and the public on payment of a reasonable fee.

2.19 **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the Executive arrangements:

- 2.19.1 Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
- 2.19.2 Article 7 (The Executive) and the Executive Procedure Rules;
- 2.19.3 Article 11 (Area Committees) where the Area Committee is exercising Executive functions;
- 2.19.4 Article 12 (Joint Arrangements) where the Joint committee is exercising Executive functions;
- 2.19.5 Article 14 (Decision making) and the Access to Information Procedure Rules (as they relate to Executive matters);

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2.19.6	Part 3 (Responsibility for Functions) (as it relates to Executive matters);
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**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 Committee	Thirteen Members	Planning and conservation Functions conferred on the Council relating to town and country planning, development control, highways and environmental protection as specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended):  Schedule 1 Part A 1-27 Schedule 1 Part B 47-55, Part I 1-34, 46-47 Schedule 2 – 10-12, 14-15 and 16,17 and 18 (except the powers reserved to the Executive)	Assistant Director – Growth & Regeneration (In accordance with any arrangements approved from time to time by the Planning Committee)
Licensing Committee	Thirteen Members	Licensing Committee role – Functions of the Council set out in Part B of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the Functions Regulations”) including but not limited to those listed below (but excluding functions reserved to full	Assistant Director - Growth & Regeneration

	<p>Council or delegated to the Licensing Committee):-</p> <p>2. The Council’s statutory powers and duties in relation to the licensing of Hackney Carriages, Private Hire, gambling, entertainment, gaming, alcohol, food and miscellaneous licensing functions relating to licensing and registration</p> <p>3. All functions of the Council, as the Licensing Authority under the provisions of the Licensing Act 2003 (except Section 5 and 6 of that Act, which are functions of the Full Council), for which the Committee will act as the ‘Licensing Committee’. The Licensing Committee will be responsible for: i. Establishment of Sub-Committees for the discharge of those functions detailed in Section 10 (4) of the Licensing Act 2003; ii. Determination of any case relating to the effect of cumulative impact in the Borough; iii. Any licensing matter where the Proper Officer considers that it should be dealt with by the Licensing Committee instead of by him/her.</p> <p>5. All the functions of the Council, in relation to gambling under the provisions of the Gambling Act 2005. The Licensing Committee will be responsible for: i. Establishment of Sub-Committees for the discharge of those functions detailed in Parts 8 and 9 and Schedules 10 and 12 of</p>	
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	<p>the Gambling Act 2005; ii. Any licensing matter where the Proper Officer considers that it should be dealt with by the Licensing Committee instead of by him/her.</p> <p>6. All of the functions, powers and duties of the Council relating to the control of sexual establishments under Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).</p> <p>7 Functions relating to pavement licences under Business and Planning Act 2020 (as amended) where the Proper Officer considers it should be dealt with by the Licensing Committee instead of by him/her</p> <p>8 Functions relating to the licensing of persons for charitable causes where the proper Officer considers that it should be dealt with by the Licensing Committee instead of by him/her (<u>Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44)</u> <u>63</u></p> <p>9. Functions relating to Food Business registration, Hairdressing registration, Animal Welfare Licensable Activities Dangerous Wild Animal licence, , Zoo licensing Hypnosis licence, Acupuncture/Tattooing/Semi-permanent Skin colouring registration, Cosmetic</p>	
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		<p>piercing/Electrolysis registration where the Proper Officer considers it should be dealt with by the Licensing Committee instead of by him/her</p> <p>10. The Licensing Committee may establish Panels of not less than 6 Members to deal with Hackney Carriage and Private Hire Licensing.”</p>	
Appointments and Staffing Committee	Five Members, of which one must be a member of the Executive.	<p>To recommend to full Council the appointment or dismissal of the Chief Executive and Head of Paid Service and Posts designated as Chief Officer (including any such Officers on Chief Officer conditions), as well as the Monitoring Officer and S151 Officer.</p> <p>To determine the terms and conditions on which all staff hold office including policies and procedures dealing with grievance and dismissal.</p> <p>In respect of Chief Officers and Officers appointed on Chief Officer conditions, to be the appeal Committee for appeals against decisions made on matters of grievance and discipline by an Investigating Committee or the Chief Officer Conduct Committee.</p>	
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 accordance with Joint Negotiating	

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	<p>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>	
<p>Audit &amp; Governance Committee</p>	<p>Seven Members</p> <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>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 including complaints against members and co-opted</p>	<p>Monitoring Officer</p>

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		<p>members of the Council for breach of the Code of Conduct; and the granting of dispensations pursuant to section 33, Localism Act 2011.</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 Executive and two voting Independent Persons	To recommend to Council any disciplinary action (including dismissal) etc. of statutory officers.	

### 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 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 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:

**SCHEME OF DELEGATION TO OFFICERS****3.3.1 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 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 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,

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 by the full Council;
- (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.

**3.3.2 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-Committees
- (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 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. Every such authorisation shall be in writing, setting out the name of the Officer, the terms, and conditions upon which that function is to be performed, and accountability for the performance of the function. The Authorised Officer making such an authorisation shall record the 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 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 for appropriate action;
- (viii) The Chief Executive shall monitor the exercise of delegated powers and duties other than statutory functions for which other Authorised Officers have responsibility. The Chief Executive may require any Officer to cease the exercise of such powers and duties pending a report to the next meeting of the Council, Executive or appropriate Committee.

### **3.4.2 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 (other than those specifically subject to Appointments and Staffing Committee).

- (a) To re-grade posts, hold posts vacant, amend the titles of posts and to make interim arrangements as necessary (where no budgetary impact).
- (b) 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:
  - (c) additional responsibilities warranting salary increases;
  - (d) not exceeding 25% of the existing job description (Consultation with staff prior to any change).
  - (e) Job Share/Reduced Hours

All posts should be available to apply for job share, with the following exceptions:

- (a) Job share/reduced hours which would disrupt management arrangements (e.g. the reduction in hours meant that the remaining hours were impossible to cover).
  - 1. Employee contracts, for time limited periods e.g. fixed term contracts.
- (b) Unpaid leave up to a maximum of 10 days may be granted subject to the demands of the service in the following circumstances:
  - 2. Extended holidays;
  - 3. For reasons set out in the Employment Rights Act 1996 and 1999 (e.g. parental leave);
  - 4. Compassionate grounds;
  - 5. Exceptional circumstances;
  - 6. Religious observance.

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

- (c) 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).

- (d) 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:

1. Changes to job requirements;
2. To meet an employee's skills gap;
3. Personal development;
  
4. To meet the business needs of the Organisation ;
5. Succession planning and the future needs of the Council;
6. Such training will involve:
  - a. CPD;
  - b. Training in-house;
  - c. 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.

Notification of all training must be provided to HR so as to ensure accurate records are maintained on the employees' individual HR record.

(e) 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:

- (iii) 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;
- (iv) 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.;
- (v) 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;
- (vi) In consultation with the Executive Director Finance and where necessary the Portfolio Holder, to set 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;

- (vii) To authorise the write-off of individual sums in line with current financial guidance;
- (viii) 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 Executive before the end of June in the new financial year.

## 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:

- (i) Hiring of plant and engaging of specialist sub-contractors;
- (ii) Any special requirements or directions given by the Council, its Committees or the Executive;
- (iii) 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.

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(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) 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 as appropriate and reported to the next meeting of the 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.
(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 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/HEAD OF PAID SERVICE**

	<b>FUNCTION</b>	<b>AUTHORISED OFFICER</b>
1.	<p><b>Urgent Action</b> To take urgent action to protect the interests of the Council and the inhabitants of the Borough.</p>	Chief Executive in consultation with the Leader of the Council & opposition group leaders so far as is practicable
2.	<p><b>Major Incident/Emergencies</b> 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</p>	Chief Executive in consultation with Executive Directors and relevant officers

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	<p>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>	
3.	<p><b>Corporate Complaints</b></p> <p>The administration of the Corporate Complaints Procedure known as The Tell Us Policy and Procedure.</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>	
	(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).	Chief Executive/Executive Director Organisation
	(b) Long service awards and the award of increments within salary grades.	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 (subject to where full Council approval is required).	Chief Executive/Executive Director Organisation
	Authority to vary contracts of employment (subject to Council Policies and Committee decisions) and to execute such letter and contracts of variation	Relevant Authorised officer in consultation with Chief Executive/Executive Director Organisation

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<p>Authority to pay overtime and planned overtime above the overtime limit.</p> <p>d) The signing of Certificates of opinion to accompany applications for exemption for posts from political restrictions.</p> <p>(e) Honoraria to be paid in accordance with NJC conditions, or any local agreement with the following exceptions:</p> <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> <p>(f) To prepare and sign (or send or otherwise authenticate) any notice, order or other document authorised by the Council.</p> <p>(g) To represent the Authority at any conference meeting or enquiry to which the Authority is invited unless the Council has indicated otherwise and to exercise any voting rights conferred by corporate membership of any body.</p> <p>(h) To settle proceedings regarding employment matters</p> <p>(i) To agree accelerated increments.</p> <p>(j) To enter into and execute such agreements on behalf of the Authority as required including but not limited to Partnership and other local area agreements.</p> <p>(k) To chair Director or other multi-disciplinary Groups.</p> <p>(l) To appoint multi-disciplinary teams or engage consultants to undertake projects falling outside the remit of any specific Director.</p> <p>(m) To assume the delegated powers of Directors in specific cases when requested so to do by such Director.</p>	<p>Relevant Authorised officer in consultation with Chief Executive / Executive Director Organisation</p> <p>Relevant Authorised officer in consultation with Chief Executive/Executive Director Organisation</p> <p>Any Officer authorised by either the Chief Executive and the Executive Director Organisation</p> <p>Chief Executive Executive Director Organisation</p> <p>Any authorised Chief Officer in consultation with Chief Executive/Executive Director Organisation</p> <p>Any authorised Chief Officer in consultation with Chief Executive/Executive Director Organisation</p> <p>Chief Executive/Executive Director Organisation in consultation with appropriate Executive Directors</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>
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<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 Payment.</p> <p>(r) Settlement of claims in respect of loss or damage to an employee's personal effects.</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. <b>Returning Officer</b></p> <p>To carry out the duties of Acting Returning Officer and Returning Officer for Parliamentary, Local, County, Fire Police and Crime Commissioner and Referendums.</p> <p>(b) To designate Polling Places where necessary in exceptional circumstances for Parliamentary, Fire Police and Crime Commissioner Local Elections.</p> <p>© To amend from time to time the scale of fees, costs, charges and expenses to be allowed for Borough elections. (Note: the level of remuneration for the Returning Officer personally to be determined by Executive).</p>	<p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Executive</p>
<p>7. <b>Electoral Registration Officer</b></p> <p>To act as the Council's Electoral Registration Officer</p>	<p>Chief Executive</p>
<p>8. <b>Common Seal</b></p> <p>To attest the Common Seal of the Borough Council</p> <p>To execute and/or attest any document as required on behalf of the Council.</p>	<p>Chief Executive/or any officer authorised by the Chief Executive</p> <p>Chief Executive</p>
<p>9. <b>Mayor</b></p> <p>To provide banking facilities for the Mayor, and to pay the Mayor's annual allowance as may be determined</p>	<p>Chief Executive/Executive Director Organisation/ Legal, Admin &amp; Democratic</p>

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	from time to time by the Council.	Services Manager
10.	<p><b>Monitoring Officer</b></p> <p>To act as the Council's Monitoring Officer and carry out the statutory duties set out in the Local Government &amp; Housing Act 1989 the Local Government Act 2000 and the Localism Act 2011.</p>	Information Governance Manager
11.	<p><b>Local Land Charges</b></p> <p>To reply to requisitions for a search of the Local Land Charges Register and Enquiries of Local Authorities.</p>	Executive Director Organisation
12.	<p><b>Town and Village Greens</b></p> <p>To consider applications for, and where appropriate, register Town and Village Greens under the Commons Registration Act 1965 and the Commons Act 2006.</p>	Chief Executive
13.	<p><b>Representation in Court</b></p> <p>To authorise the appearance of persons other than Solicitors pursuant to Section 223 of the Local Government Act 1972.</p>	Relevant Executive Director
14.	<p><b>Legal Proceedings (Civil)</b></p> <p>(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.</p> <p>(b) To institute proceedings in the Magistrates or Crown Court where there has been a breach of any statutory notice issues/served by the Council or where the Authority has a general power or duty to enforce the law through the criminal courts.</p>	<p>Relevant Executive Director</p> <p>Relevant Executive Director</p>
15.	<p><b>Legal Agreements/Public Notices</b></p> <p>To be responsible for:</p> <p>(a) the execution of legal agreements pursuant to the Council's Procedural and Contract Rules.</p> <p>(b) the issue of Public Notices</p>	Relevant Executive Director
16.	To make a charge on a property when an individual enters Part III residential accommodation.	Executive Director Communities



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17.	To enter into Deed of Release and/or Variation in landlord tenant matters.	Executive Director Communities
18.	To take peaceable re-entry of leasehold property in the event of occupation of property not in agreement with agreed terms.	Executive Director Communities
19.	To enter into nomination agreements on housing matters.	Executive Director Communities
20.	To enter into Highway Bond Agreements under Sections 219 to 220 Highways Act 1980.	Relevant Executive Director
21.	<p><b>Implementation of Decisions</b></p> <p>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.</p>	Chief Executive
22.	<p><b>Compulsory Purchase Orders</b></p> <p>To make, vary and/or amend Compulsory Purchase Orders.</p>	Relevant Executive Director
23.	<p><b>Property Management</b></p> <p>Service of notices under Section 25 of the Landlord &amp; Tenant Act 1954 to enable rents and any other new terms to be negotiated.</p>	Executive Director Communities
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.	Executive Director Communities
25.	<p><b>Council Halls/Meeting Rooms</b></p> <p>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.</p>	Chief Executive in consultation with Assistant Director Assets and Leader of the Council
26.	<p><b>Hire of Civic Accommodation</b></p> <p>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.</p>	Assistant Director People

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27.	<p><b>Regulation of Investigatory Powers Act 2000</b></p> <p>To make any necessary amendments to the Covert Surveillance Policy and Procedural Guidance documentation.</p>	<p>Executive Director Communities Assistant Director Partnerships</p>
28.	<p><b>Data Protection Act 2018 (DPA) / UK- General Data Protection Regulations (UK-GDPR)</b></p> <p>To act as the Council's Data Protection Officer</p> <p>To take all necessary steps under the Freedom of Information Act and all relevant secondary legislation and guidance</p>	<p>Information Governance Manager (Monitoring Officer)</p> <p>Information Governance Manager (Monitoring Officer) / in consultation with Assistant Director - People</p>
29.	<p>To determine arrangements for the inspection of background papers for meetings.</p>	<p>Legal, Admin and Democratic Services Manager in consultation with the Executive Director Organisation</p>
30.	<p><b>Members' Allowances Scheme</b></p>	
	<p>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.</p>	<p>Executive Director Finance</p>
31.	<p><b>Entertainment of Civic Guests/Hospitality</b></p>	
	<p>Authority to approve arrangements and expenditure in respect of the entertainment of civic guests within approved budget.</p>	<p>Chief Executive / Executive Director Organisation</p>
	<p>To arrange all civic ceremonies and ancillary events in consultation with the Mayor.</p>	<p>Chief Executive / Executive Director Organisation</p>
32.	<p><b>Courses &amp; Seminars</b></p>	
	<p>To approve the attendance of Members at courses and seminars.</p>	<p>Chief Executive, Executive Director Organisation</p>

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### (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 Communities having taken consultation as necessary, with the Council's legal advisors, be authorised in respect of the land and property for which he is responsible subject to:

	<b>FUNCTION</b>	<b>AUTHORISED OFFICER</b>
(i)	To authorise the granting, renewal, termination, assignment or sub-letting of leases, tenancies or other interests in land and property.	Assistant Director Assets
(ii)	To approve variations in rent arising from rent reviews of land and property leased to or by the Council.	Assistant Director Assets
(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 in consultation with Executive Director Communities
(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 in consultation with the Executive Director Communities
(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
(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
(vii)	To arrange for payment of appropriate rates, charges and taxes.	Assistant Director Assets
(viii)	To approve claims for disturbance arising out of compulsory and voluntary acquisitions.	Assistant Director Assets
(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.	Executive Director Communities Assistant Director Assets

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(x)	To approve modifications or additions to Council land and property funded by third parties.	Assistant Director Assets
(xi)	To authorise works of improvement or repair to Council land and property.	Assistant Director Assets
(xii)	To authorise building maintenance work.	Assistant Director Assets
(xiii)	To authorise the design and execution of building and incidental work.	Assistant Director Assets
(xiv)	To commission building contracts to be entered into by the Council.	Assistant Director Assets
(xv)	To commission feasibility studies and value for money appraisals on all capital investments.	Assistant Director Assets
(xvi)	To proceed with compulsory acquisition of rights over land under the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation.	Assistant Director Assets

**(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

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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

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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

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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.	<p>To collect income of the Council, including:</p> <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.	<p>Approval of payments from the insurance fund in respect of claims meeting the criteria and terms of self-insured risks.</p> <p>To deal with all insurance against loss to or liability of the Council including the areas of cover, the extent of cover, the negotiation and acceptance of conditions of cover, and settlement of claims against the insurer or by a claimant (so far as permitted by the insurer).</p>	Executive Director Finance
	<b>Car Loans &amp; Allowances</b>	
37.	The day to day grant and administration of car loans,	



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	and financial allowances to staff, including the schemes for travelling, subsistence, relocation expenses, telephone and car allowances, including variations to local terms to reflect variation in national agreed schemes or in line with inflation. The authorisation /sign off of car loan agreements	Executive Director Organisation/Executive Director 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 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 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
44.	<b>Health &amp; Safety</b>  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.	Chief Executive/Assistant Director Growth & Regeneration

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	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.	Executive Director Organisation / Chief Executive / Assistant Director, Environment, Culture and Wellbeing
45.	<b>Write-offs</b> In respect of all write-off's below £10,000.	Executive Director Finance
	<b>Housing Benefit, &amp; Council Tax Benefit and Council Tax Reduction</b>	
46.	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.	Assistant Director Finance
47.	To apply administration penalties, sanctions and administer Cautions under current legislation in relation to Social Security and Council Tax Reduction fraud.	Assistant Director Finance /Head of Revenues & Benefits
	<b>Council Tax</b>	
48.	Lodging of proposals by the Council for revision of existing bandings.	Executive Director Finance
49.	(a) To discharge any of the functions imposed upon and capable of delegation to an Officer by the Borough Council, as a billing authority, by virtue of the Local Government Finance Act 1992 (as amended) in connection with the administration, billing collection and recovery of the Council Tax including: <ul style="list-style-type: none"> <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>	Executive Director Finance
	<ul style="list-style-type: none"> <li>To apply when necessary for a summons against any Council Tax payer or non-domestic ratepayer on whom an account for the said tax or rate and arrears has been duly served and who has failed to pay the amounts due to take all subsequent necessary action to recover them promptly.</li> </ul>	Executive Director Finance
	<ul style="list-style-type: none"> <li>To collect (and disperse from the relevant</li> </ul>	Executive Director Finance

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	accounts) the Council Tax and National Non-Domestic Rate.	
	(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
1.	<b>Consultation</b> To consult and promote participation of tenants in service development.	Executive Director Communities
2.	<b>Government Returns</b> Complete relevant returns annually in line with the agreed capital programme and strategy.	Executive Director Communities
3.	<b>Tenants' Improvements</b> 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 regulations and planning requirements.	Executive Director Communities/ Assistant Director Assets
4.	<b>Improvements to Sold Council Dwellings</b> Approval or refusal of applications from owners of	Executive Director Communities/

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

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

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7.	<b>Allocation Scheme</b>	
	(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.	Executive Director Communities / Assistant Director Neighbourhoods
	(b) To deal with all applications from tenants of the Council for alternative accommodation on non-housing needs grounds.	Executive Director Communities /Assistant Director Neighbourhoods
	(c) Re-housing of the tenants and their families in cases where Closing, Demolition and Clearance Orders are made.	Executive Director Communities /Assistant Director Neighbourhoods
	(d) Acceptance of service authorities' certificates of cessation of entitlement to occupy a service quarter in lieu of Court Order.	Executive Director Communities / Assistant Director Partnerships/Assistant Director Neighbourhoods
	(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.	Executive Director Communities
	(f) Appeals on those matters referred to in (a) and (b) above.	Executive Director Communities
(g) To transfer tenants on management grounds.	Executive Director Communities	
8.	<b>Provision of Council Housing in Special Cases</b>	
	(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.	Executive Director Communities / Assistant Director Partnerships/Assistant Director Neighbourhoods
	(b) Appeals on those matters referred to in 11 (a) above.	Executive Director Communities/ Assistant Director Partnerships/Assistant Director Neighbourhoods

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	<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
	(b) Applications for second succession or succession leading to under-occupation.	Assistant Director Neighbourhoods
	(c) Applications for assignment of a tenancy.	Assistant Director Neighbourhoods
	(d) Applications to sublet or part with possession of part of a property.	Assistant Director Neighbourhoods
	(e) Application under the “right to approve”.	Assistant Director Neighbourhoods
<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 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

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	<b>Sales of Housing</b>	
12.	Signature of TP1 and Right to Buy (RTB) forms in connection with Housing Act 1985 unless under seal which would require the Chief Executive's authority.	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>Executive Director Organisation</p> <p>Executive Director Organisation</p> <p>Executive Director Organisation</p> <p>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>



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	(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;	Executive Director Organisation
	(i) Appeal against discretionary determinations.	Executive Director Organisation
14.	<p><b>Tenants' Right to Repair</b></p> <p>(a) Authority to operate statutory schemes under Right to Repair legislation.</p> <p>(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.</p>	<p>Assistant Director Assets</p> <p>Assistant Director Assets</p>
15.	<p><b>Harassment</b></p> <p>Investigation of complaints or alleged offences including the instigation of legal proceedings and prosecutions, under Landlord &amp; Tenant Act 1962 and under the Protection from Eviction Act 1977 and under the Protection of Harassment Act 1997.</p>	Executive Director Communities / Assistant Director Neighbourhoods / Assistant Director Partnerships
16.	To determine applications for transfer from tenants suffering from harassment.	Executive Director Communities / Assistant Director Neighbourhoods
	<p><b>Private Tenants – Restoration of Services</b></p>	
	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
	<p><b>Private Sector Housing</b></p>	
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

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	<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>First Homes Matters</b> To consider and deal with all approvals, consents, compliance, and any matters arising therefrom pursuant to the Governments First Homes Programme	Executive Director Communities Assistant Director Partnerships
20.	<b>Infill Housing Sites on Council Housing Estates</b> 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
22.	<b>Demolition of Unfit Properties/Garage Sites</b> 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 / Assistant Director Assets
	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 / Assistant Director Assets
24.	To set charges for individual alarm units that cover the actual cost of purchase by the Council.	Executive Director Communities / Assistant Director Neighbourhoods / Assistant Director Assets
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 / Assistant Director Neighbourhoods / Assistant Director Assets

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### (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 but delegated to joint arrangements hosted by Lichfield District Council
2.	Directions under Sections 8, 10, 15, 19, 20, 21, 24, 25, 30, 32, 33, 35, 36, 47, 72, 77, 78, 79, 80, 81, 95, 96 and 107 of the Building Act 1984.	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 & Assistant Director Assets
	<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

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	<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
11.	<b>Emergency Tree Works</b> 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

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

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	(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
18.	<p><b>Planning &amp; Compensation Act 1991</b></p> <p>To decide to decline to determine applications if he/she is satisfied that they fall within all provisions of Section 17 of the Act.</p>	Assistant Director Growth & Regeneration
19.	<p><b>Listed Buildings</b></p> <p>To take urgent action in respect of Listed Buildings and Conservation Areas under the provisions of the Planning (Listed Buildings &amp; Conservation Areas) Act 1990.</p>	Assistant Director Growth & Regeneration
	<p><b>Planning Briefs</b></p>	
20.	Approval of planning briefs in accordance with planning policy.	Assistant Director Growth & Regeneration
	<p><b>Street Naming and Numbering</b></p>	
21.	<p>Towns Improvement Clauses Act 1847, Public Health Acts Amendment Act 1907 and Public Health Act 1925</p> <p>Numbering and re-numbering of premises in streets.</p>	Assistant Director Growth & Regeneration

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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
	<b>Highways &amp; Transportation Services - Regulatory Functions</b>	
1.	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, Environment, Culture and Wellbeing
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, Environment, Culture and Wellbeing
5.	Selection of sites for and planting of street trees within approved estimates.	Assistant Director, Environment, Culture and Wellbeing
	<b>Permits</b>	
6.	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 relevant Authorised Officer considers an order under the Town Police Clauses Act 1847 is inappropriate.	The relevant Authorised Officer

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	<b>Hackney Carriages &amp; Private Hire Vehicles</b>	
7.	<p>(a) Substitution of vehicles under existing Hackney Carriages and Private Hire Licences.</p> <p>(b) Transfer of ownership of Hackney Carriages and Private Hire Vehicles.</p> <p>(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.</p>	Assistant Director Growth & Regeneration
8.	<p><b>Allotments</b></p> <p>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.</p>	Assistant Director Assets
9.	<p>Routine management of allotment plots in accordance with Smallholdings and Allotments Act 1908 and Allotments Act 1922.</p>	Assistant Director Assets
10.	<p><b>Cemetery &amp; Crematorium</b></p> <p>Management of the Cemetery and Crematorium in accordance with Cemetery and Crematorium Rules and appropriate statutory provisions.</p>	Assistant Director, Environment, Culture and Wellbeing
11.	<p><b>Commercial Transport</b></p> <p>Appointed Licence holder for any commercial transport for the Council</p>	Chief Executive or any person authorised to act on their behalf

## (G) MISCELLANEOUS

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

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

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### 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: -

<b>ACT</b>	<b>EXTENT OF DELEGATION (Parts or Sections)</b>
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 mandatory and discretionary disabled facilities grants.
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.
Housing and Planning Act 2016	Part II – Rogue Landlords and property agents

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	in England
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

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### 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. To enter into planning obligations under Section 106 of the Town & Country Planning Act 1990 in cases where in all other respects the application falls within this Scheme of Delegation.

7. To 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

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(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, 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	

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Item	Page
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.	

## 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 Management Team Leader** 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

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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.



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### 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/**Environment, Culture and Wellbeing and 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)
1. Local Government (Miscellaneous Provisions) Acts 1976 and 1982:-	Powers under the following sections of the Local Government (Miscellaneous Provisions) Acts 1976 and 1982)

Item	Page
	<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>Charitable Collections - The 'Police, Factories, etc, (Miscellaneous Provisions) Act 1916' as amended by schedule 29 of the Local Government Act 1972 which regulates collections of money or sales of articles for charitable purposes in street and public places</p> <p>In consultation with the Chair (or vice chair) of the Licensing Committee, immediately suspend or revoke a Hackney Carriage / Private Hire vehicle driver's licence where it is considered necessary in the interest of public safety (Section 61 of Local Government (Miscellaneous Provisions) Act 1976</p>
<p>2. Registration and Licensing – Various Acts</p>	<p>Registration of persons and premises in respect of acupuncture, tattooing and electrolysis in accordance with sections 14 and 15 of the Local (Miscellaneous Provisions) Act 1982.</p> <p>Enforcement of Parts III and V of the Food Act 1984.</p> <p>Entry into premises where it is suspected that an offence is being committed in accordance with Section 17 of the Local Government (Miscellaneous) Provisions Act 1982.</p>
<p>3. Sunbeds (Regulations) Act 2010</p>	<p>Powers under the following sections of the Sunbed (Regulations) Act 2010</p>

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	<ul style="list-style-type: none"><li>• Section 2 – Duty to prevent sunbed use by children</li><li>• Section 7 - Enforcement by local authorities</li><li>• Section 8 - Obstruction etc. of authorised officers</li><li>• Section 9 - Offences by bodies corporate</li><li>• Schedule - Powers of entry etc.</li></ul>
4. Licensing Act 2003	<p>All powers under the Licensing Act 2003 which can be delegated to an officer relating to</p> <ul style="list-style-type: none"><li>(a) The determination of an application for a premises licence</li><li>(b) The determination of an application for a provisional statement</li><li>(c) The determination of an application to vary a premises licence</li><li>(d) The determination of an application to vary a premises licence so as to specify a new premises supervisor</li><li>(e) The determination of an application to transfer a premises licence</li><li>(f) The determination of an application for review of premises licence</li><li>(g) The determination of whether a club is established and conducted in good faith</li><li>(h) The determination of an application for club premises certificate</li><li>(i) The determination of an application to vary club premises certificate</li><li>(j) The determination of an application for review of club premises certificate</li><li>(k) The determination of an application by temporary event notice for a permitted temporary activity</li><li>(l) The determination of an application for grant or renewal of personal licence</li><li>(m) The authorisation of an officer as an “authorised person” for the purposes off the Act</li><li>(n) The authorisation of an officer as an “authorised officer” for the purposes of the Act</li></ul>

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Item	Page
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>
Taxi legislation (Town Police Clauses Act 1847 & The Local Government (Miscellaneous Provisions) Act 1976)	The Whole Act where applicable to the council
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
11. House to House Collections - (House to	The Whole Act

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House Collections Act 1939)	
12. Dangerous Wild Animals - (Dangerous Wild Animals Act 1976)	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	Section 17

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	<p>(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.

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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.	
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 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 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 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 and is no longer used for that purpose 'to take

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	<p>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>
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 Dangerous Wild Animals Act 1976 The Zoo Licensing Act 1981</p> <p><b>Animal Welfare (Licensing of Activities Involving Animals) (England) regulations 2016</b></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 where applicable to the Council
<b>Land Drainage Act 1991</b>	The Whole Act where applicable to the Council
<b>Caravan Sites Act 1968</b>	The Whole Act where applicable to the Council
<a href="#">Scrap Metal Dealers Act 2013</a>	The whole act where applicable to the Council.



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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	<p>The powers and duties of the Council under Parts I, II, IIa, III, IV, VIII, IX of the Environmental Protection Act 1990.</p> <p>Authority to serve relevant notices under the provisions of part IIa of the Act in respect of contaminated land and the declaration of land as contaminated.</p> <p>Authority to appoint suitably qualified persons to act as authorised Officers/Inspectors for the purposes of the provisions of parts I, II, IIa, III, IV, VIII, IX.</p> <p>Compliance with the Council's Duty of Care in respect of waste (Section 34).</p> <p>Compliance with the Council's Duty to keep land and highways clear of litter etc. (Section 89).</p> <p>Compliance with the Councils duties under section 45, 46 and 48 in respect of collection and disposal of household waste.</p>
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	<p>To exercise the functions and duties of the Council in respect of air quality management and contaminated land management.</p> <p>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.</p>
Environment Act 2021	The Whole Act where applicable to the Council
Environment and Safety Information Act 1988	The Whole Act where applicable to the Council
Health Act 2006	The Whole Act where applicable to the Council

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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.
CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994	
Regulation of Investigatory Powers Act 2000	
45. Control of Pollution Act 1974	Parts III and V of the Act
The Pollution Prevention & Control Act 1999	The whole
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  Dangerous Dogs Act 1989	As applicable to Borough Council

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Item	Page
<p>Welfare of Animals at Slaughter Act 1991                      Animal Health Act 2002                      Animal Welfare Act 2006                      Dangerous Dogs (Amendment) Act 1997                      Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.</p>	
Civic Amenities Act 1967	
<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>	As applicable to Borough Council
<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>	

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54. Copyright  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	
55. Explosives  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 Manufacture and storage of Explosive Regulations 2005	
56. Food and Environmental Protection  Food and Environment Protection Act 1985 Food Safety Act 1990 Food Safety & Hygiene (England) Regulations 2013 (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	

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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 Road Traffic Offenders Act 1988 Road Traffic Act 1991	As applicable to Borough Council
Staffordshire Act 1983	The whole Act as applicable to the Council
63. Telecommunications  Telecommunications Act 1984	
64. Trade Descriptions  Trade Descriptions Act 1968 Property Misdescriptions Act 1991	

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<p>65. Unsolicited Goods and Services</p> <p>Unsolicited Goods and Services Act 1971 Unsolicited Goods and Services (Amendment) Act 1975</p>	
<p>66. Video Recordings</p> <p>Video Recording Act 1984 Video Recordings Act 1993</p>	
<p>67. Weights and Measures</p> <p>Weights and Measures etc. Act 1976 Merchant Shipping Act 1979 Weights and Measures Act 1985</p>	
<p>68. Nationality, Immigration and Asylum Act 2002</p>	Performance and Management of Citizenship Ceremonies
<p>69. Refuse Disposal (Amenity) Act 1987 and the Vehicle Excise and Registration Act 1994</p>	To authorise the removal of untaxed vehicles on an adopted highway under the devolved powers scheme of the Driver and Vehicle Licensing Agency.
<p>70. Pollution Prevention Control Act 1999</p>	<p>To carry out the relevant functions of the Council with respect to a Part A(2) &amp; Part B 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.</p> <p>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.</p>
<p>71. Clean Neighbourhoods and Environment Act 2005</p>	Authority to carry out the relevant functions as applicable to a Borough Council in authorising suitable officers for the purpose of exercising a statutory function with respect to Environmental Health, Community Safety, Licensing and Registration.
<p>72. Control of Pollution (Amendment) Act 1989</p>	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.

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73. Housing Grants, Construction & Regeneration Act 1996	Mandatory Grants to help with disabled facilities.
74. The Regulatory Reform (Housing Assistance) Order 2002	(i) Policy for grants etc. for renewal of Private Sector Housing and Provision of mandatory and discretionary disabled facilities grants.
75. Byelaws for Pleasure Grounds, Public Walks and Open Spaces 2004	Full Byelaws
76. Byelaws for Good Rule and Government 2004	Full Byelaws

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### 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.

	<b>FUNCTION</b>	<b>AUTHORISED OFFICER</b>
	Public space for Events	Assistant Director, Environment, Culture and Wellbeing or authorised officer
1.	Town Hall Bookings of the Town Hall	Customer Experience Operations Manager
2.	To determine appeals following the refusal of a booking of the Town Hall.	Assistant Director People
3.	Opening Hours 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 n 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 Director, Environment, Culture and Wellbeing /Assets
6.	General management of and authority to authorise bookings for non core activities.	Assistant Director, Environment, Culture and Wellbeing /Assets
	Concessionary Charges for Public Buildings/Parks	Assistant Director, Environment, Culture and Wellbeing /Assets
7.	Determination of applications for concessionary charges for use of public buildings/parks within control of Council. Within established policy.	Assistant Director, Environment, Culture and Wellbeing /Assets



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8.	<p>Localism Act 2011 – section 30 / 31 / 33 dispensation</p> <p>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 :</p> <ul style="list-style-type: none"><li>• 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,</li><li>• 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,</li><li>• granting the dispensation is in the interests of persons living in the authority's area,</li><li>• 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</li><li>• it is otherwise appropriate to grant a dispensation.</li></ul> <p>Any dispensation must specify the period for which it is to have effect and can be for no longer than 4 years.</p>	Monitoring Officer
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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

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### 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	Chief Executive

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	vacancy in the office of Chair.	
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
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	Chief Executive

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	and Deputy Acting Returning Officer for Parliamentary, European, County, Borough & Parish Elections and National Referenda.	
81	Receipt & Deposit of Election Expenses.	Electoral Services Manager
82	Declarations as to Expenses.	Electoral Services Manager
Schedule 2 Rule 50 Local Elections (Principal Areas)(England & Wales) Rules 2006	Receipt of Notice of Persons Elected.	Electoral Services Manager
Schedule 2 Rules 52 & 54 Local Election (Principal Areas) (England & Wales) Rules 2006	Receipt, retention and disposal of election documents.	Electoral Services Manager

3.

### In the Local Government Act 1972:

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

### In the Local Land Charges Act 1975:

Section	Function	Officer
The Whole Act	To act on Local Land Charges Register.	Executive Director Organisation

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### 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 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 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

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(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

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<b>In the Public Health (Control of Diseases) Act 1984:</b>		
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.	Legal Admin & Democratic Services Manager



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### 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

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### 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	Information Governance Manager	Deputy Monitoring Officer/s

#### In the Representation of the People Acts 1983 & 1985:

Section	Function	Designation	Deputy
35	Returning Officer	Chief Executive	Assistant Director People and Election Services Manager

#### 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	Executive Director Communities. Appeals in relation to the above Chief Executive	Chief Executive
Part 5 Chapter 2	Community Right to Challenge – processes as per the policy	Executive Director Communities Appeals in relation to the above Chief Executive	Chief Executive
	Town & Country Planning (Brownfields Land Register) Regulations 2007	Assistant Director Growth & Regeneration	Assistant Director Growth & Regeneration
Sec 38 (1)	Prepare Pay Policy Statement	Head of Paid Service	Assistant Director People

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<b>Rules of Procedure</b>	
<b>Council Procedure Rules</b>	

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Schedule 16	Local Protocol for Councillors and Officers Dealing with Planning Matters
Schedule 17	Tamworth Borough Council Monitoring Officer Protocol
Schedule 18	Guidance Notes in Completing the Register of Members' Interest Form

## **4.1 ANNUAL MEETING OF THE COUNCIL**

### **4.1 Timing and business**

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

The annual meeting will elect:

- a) the Mayor of Council;
- b) the Deputy Mayor of Council;
- c) the Leader.

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

## **4.2 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 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;
- 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;

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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	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;	

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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 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.

#### 4.4.2 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.

Day of Meeting	
Monday	5pm the previous Friday

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Tuesday	5pm the previous Monday
Wednesday	5pm the previous Tuesday
Thursday	5pm the previous Wednesday
Friday	5pm the previous Thursday

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

### 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 above 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:

- a) to take the place of the ordinary member for whom they are the substitute and for that meeting only;
- b) where the ordinary member will be absent for the whole meeting;
- c) 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 not apply to Audit & Governance Committee, Executive, 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 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.

#### **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**

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	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.
<b>4.10.7</b>	<b>Asking the question at the meeting</b>
	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.
<b>4.10.8</b>	<b>Written answers</b>
	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:
	<ul style="list-style-type: none"><li>• Be published on the Council website as soon as practicable after the meeting, but in any event before the next ordinary meeting, and</li><li>• be attached to the minutes of that meeting.</li></ul>
<b>4.10.9</b>	<b>Supplementary Questions</b>
	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.
<b>4.10.10</b>	<b>Reference of question to the Executive</b>
	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.
<b>4.10.11</b>	<b>Time limit on questions from members of the public</b>
	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:

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

#### 4.11.5 **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 Secunder's 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.

#### 4.14.1 **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.

#### 4.14.1 **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.



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4.14.1 <b>Withdrawal of motion</b>	
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.	
4.14.1 <b>Right of reply</b>	
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.	
4.14.1 <b>Motions which may be moved during debate</b>	
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.	
4.14.1 <b>Closure motions</b>	
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.	

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	a) 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.
	b) 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.
	c) 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.
4.14.1	<b>Point of order</b>
	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.
4.14.1	<b>Personal explanation</b>
	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.
4.14.1	<b>Single Issue Debate Meetings</b>
	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	<b>STATE OF TAMWORTH DEBATE</b>
4.15.1	<b>Calling of debate</b>
	The Leader will call a state of Tamworth debate annually <b>in</b> a form to be agreed with the Mayor.
4.15.1	<b>Form of debate</b>
	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.

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4.15.1	<b>Chairing of debate</b>
	The debate will be chaired by the Mayor.
4.15.1	<b>Results of debate</b>
	The results of the debate will be:
	a) 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	<b>PREVIOUS DECISIONS AND MOTIONS</b>
4.16.1	<b>Motion to rescind a previous decision</b>
	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.
4.16.1	<b>Motion similar to one previously rejected</b>
	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	<b>VOTING</b>
4.17.1	<b>Majority</b>
	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.
4.17.1	<b>Mayor's casting vote</b>
	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.
4.17.1	<b>Show of hands</b>

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 if there is no dissent, by the affirmation of the meeting.

4.17.1 **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.

4.17.1 **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.

4.17.1 **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.

4.17.1 **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.

**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.

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<b>4.18.3 Form of minutes</b>	
Minutes will contain all motions and amendments in the exact form and order the Mayor put them.	
<b>4.19 RECORD OF ATTENDANCE</b>	
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.	
<b>4.20 EXCLUSION OF PUBLIC</b>	
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).	
<b>4.21 MEMBERS' CONDUCT</b>	
<b>4.21.1 Standing to speak</b>	
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.	
<b>4.21.1 Mayor standing</b>	
When the Mayor stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.	
<b>4.21.1 Member not to be heard further</b>	
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.	
<b>4.21.1 Member to leave the meeting</b>	
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.	
<b>4.21.1 General disturbance</b>	
If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as s/he thinks necessary.	
<b>4.21.1 Disclosable pecuniary interests</b>	

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 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.

##### **4.22.1 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.

##### **4.23.1 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 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.

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

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

**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 2.2 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 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 Health and Wellbeing Scrutiny Committee, the Corporate Scrutiny Committee, Statutory Officers Conduct Committee, Chief Officer Conduct Committee and Nominations and Grants 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**



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	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.
<b>7.3 Recorded vote</b>	
	If a recorded vote is called for during this process it will be taken immediately.
<b>7.4 Motions which may be moved</b>	
	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.
<b>7.5 Close of the meeting</b>	
	When all motions and recommendations have been dealt with, the Chair will declare the meeting closed.
<b>8 MOTIONS ON NOTICE</b>	
<b>8.1 Notice</b>	
	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.
<b>8.2 Motion set out in agenda</b>	
	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.
<b>8.3 Scope</b>	
	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.
<b>8.4 Motion to remove the Chair</b>	
	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 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 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.

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### 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 9GA 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 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**

- 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,

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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 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, shall 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 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 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.

## 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**

<b>1</b>	Information relating to any individual.
<b>2</b>	Information which is likely to reveal the identity of an individual.
<b>3</b>	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
<b>4</b>	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.
<b>5</b>	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
<b>6</b>	Information which reveals that the authority proposes:  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a

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	person; or (b) to make an order or direction under any enactment.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2 QUALIFICATIONS: ENGLAND

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

## 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.

### **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

## **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.

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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 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.

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

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.

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 Chair agrees.

20.3 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.

20.4 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.

20.5 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.

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



**21.1 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.

**21.2 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.

**21.3 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.

**21.4 Nature of rights**

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

**21.5 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 Monitoring Officer depending on the nature of the exempt information, for example staffing issues, licensing appeals and standards and ethics issues.

**22 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS****22.1 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.

**22.2 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.

**22.3 Exceptions**

However, a document is not required to be available for inspection under Rule 22.1 or 22.2 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.

#### **22.4 Nature of Rights**

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

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

23.1 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:

23.1.1 any business that has been transacted at a meeting of a decision-making body of the Council;

23.1.2 any decision that has been made by an individual Executive Member in accordance with Executive arrangements; or

23.1.3 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.

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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 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 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

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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 decided by the Leader and approved by this Council as part of 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 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 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) 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.

### 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 2 month period from receiving the report or recommendations.

### 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.

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<b>SCHEDULE 5 - OVERVIEW AND SCRUTINY PROCEDURE RULES</b>	
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	<b>Meetings of the overview and scrutiny committees</b>  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	<b>Quorum</b>  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	<b>Chair of Scrutiny Committees</b>  Chair 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	<b>Work programme</b>  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.

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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.
<b>9</b>	<b>Agenda items</b>
	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.
<b>10</b>	<b>Policy review and development</b>
	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.
<b>11</b>	<b>Reports from overview and scrutiny committee</b>
	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.
<b>12</b>	<b>Meetings of Executive</b>

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. 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**

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	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.
<b>16</b>	<b>Attendance by others</b>
	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.
<b>17</b>	<b>Call-in</b>
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 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:



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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 <u>must</u> set out 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:  (a) 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.	

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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 cannot amend decisions made by the Executive 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;

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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.

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### 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 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

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- c) the Audit Manager
- d) 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.

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 Audit Manager.

- 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 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 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 require 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 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 Other Statutory/Chief Officers**

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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 approval.	
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.	
<b>5 Other appointments</b>	
<b>Officers below Chief Officer.</b> 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.	
<b>Assistants to political groups.</b> Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.	
<b>6 Disciplinary action</b>	
<b>6.1 Suspension.</b> 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.	
<b>6.2</b> 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	
<b>7. CHIEF OFFICERS CONDUCT COMMITTEE</b>	
<b>7.1</b> 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	
<b>7.2.</b> In the course of the investigation the Chief Officers Conduct Committee may recommend:	
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.	
<b>7.3</b> 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.	



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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: <ul style="list-style-type: none"><li>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</li><li>7.5.2 recommending any disciplinary action which appears to the committee to be appropriate for the Council to take against the relevant officer.</li></ul> unless they have previously directed that the suspension be terminated and 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; <ul style="list-style-type: none"><li>a) any advice, views or recommendations of the Chief Officers Conduct Committee</li><li>b) the conclusions of any investigation into the proposed dismissal; and</li><li>c) any representations from the relevant officer;</li><li>d) the requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).</li></ul>
7.8	Members of the Council will not be involved in disciplinary action against any officer below 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.
<b>8</b>	<b>Settlement Agreements and Termination Payments</b>
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**

**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 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.

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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.

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

- 16** Disclosable pecuniary interests as set out in the regulations<sup>1</sup> being the interest of:-
- 16.1 the member or co-opted member.
  - 16.2 the spouse or partner of the member or co-opted member.
  - 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.
  - 16.4 and the member or co-opted member is aware that the other person has an interest.
- 17** Disclosable pecuniary interests<sup>2</sup> are:-
- 17.1 Employment, office, trade profession or vocation.
  - 17.2 Sponsorship.
  - 17.3 Contracts with the Council.
  - 17.4 Any interest in land in the Borough.
  - 17.5 Any licence to occupy land in the Borough.
  - 17.6 Corporate tenancies where the Council is the landlord and the tenant is a body in which any of the persons in paragraphs 13.1 to 13.3 above have a beneficial interest.
  - 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 functions

If a member or co-opted member is present at a meeting of the Council, the Executive, or any committee, sub-committee, joint committee or joint sub-committee of the Council or of the 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 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.

### Voluntary registration and declaration of interests – guidance

<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interest) Regulation 2012.

<sup>2</sup> See the regulations for the full definition.

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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

## 1. Introduction and Context

- 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:

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

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	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 <b>Appendix 1</b> for your assistance.
<b>4.</b>	<b>Will your Complaint be Investigated?</b>
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: <ul style="list-style-type: none"> <li>a) Merits no further investigation</li> <li>b) Merits further investigation</li> <li>c) Should be referred to Audit &amp; Governance Committee</li> </ul>
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 <b>Appendix 2</b> . Where the Monitoring Officer



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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.	
<b>5. How is the Investigation Conducted?</b>	
5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as <b>Appendix 3</b> 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.	
<b>6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?</b>	

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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.
<b>7.</b>	<b>What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?</b>
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.
	<b>a) Informal Resolution</b>
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>b) Hearing</b>
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 <b>Appendix 4</b> 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 Executive, or removed from particular Portfolio responsibilities. Recommend to Council that the Member be replaced as 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

## **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)

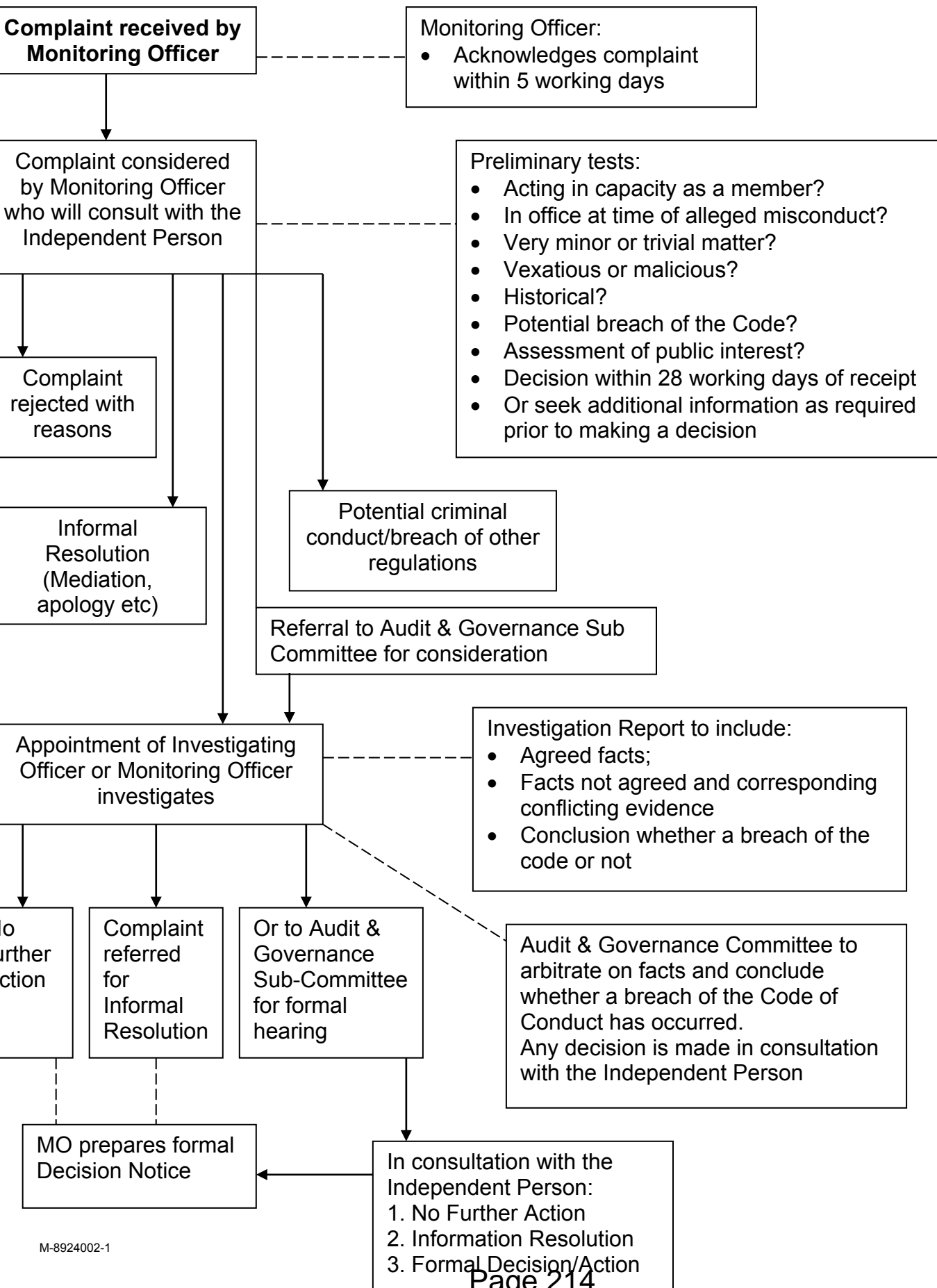
Local Government Ombudsman, PO Box 4771,  
Coventry, CV4 0EH

Tele: Advice Team – 0300 061 0614

Text to 'call back' 0762 480 3014

**APPENDIX 1**

**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

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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.

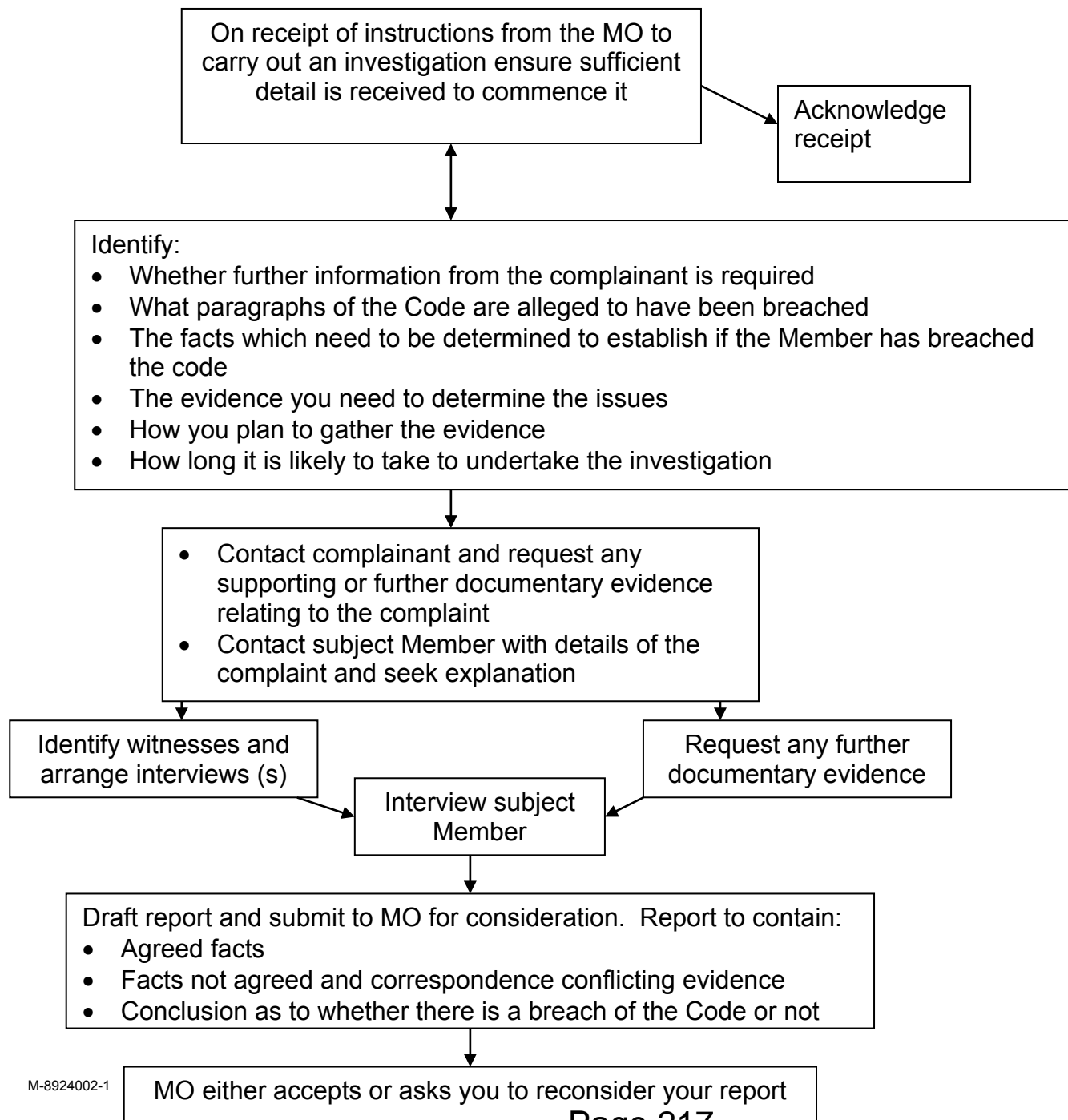
**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.**



### 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 style="text-align: center;"><b><u>Quorum</u></b></p> <p>1.1 Three Members must be present throughout the hearing to form a quorum</p> <p>1.2 The Sub-Committee shall nominate a Chair for the meeting</p>
2	<p style="text-align: center;"><b><u>Opening</u></b></p> <p>2.1 The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc</p> <p>2.2 The Chair asks all present to introduce themselves</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position</p>
3	<p style="text-align: center;"><b><u>The Complaint</u></b></p> <p>3.1 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</p> <p>3.2 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)</p> <p>3.3 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.</p>

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4	<p><b><u>The Councillor’s Case</u></b></p> <p>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).</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses.</p>
5	<p><b><u>Summing Up</u></b></p> <p>5.1 The Investigating Officer may sum up the complaint.</p> <p>5.2 The Member (or their representative) may sum up their case</p>
6	<p><b><u>Decision</u></b></p> <p>6.1 Members of the Sub-Committee will deliberate to consider the complaint in consultation with the Independent Person prior to reaching a decision.</p> <p>6.2 Upon the Sub-Committee’s return the Chair will announce the Sub-Committee’s decision in the following terms:-</p> <p style="padding-left: 40px;">6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p style="padding-left: 40px;">6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p style="padding-left: 40px;">6.2.3 The Sub-Committee will give reasons for their decision</p> <p>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:</p> <p style="padding-left: 40px;">6.3.1 whether any action should be taken, and</p> <p style="padding-left: 40px;">6.3.2 what form any action should take</p>

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| 6.4 | The Sub-Committee will then deliberate to consider what action if any should be taken in consultation with the Independent Person  |
| 6.5 | On the Sub-Committee's return the Chair will announce the Sub-Committee's decision   |
| 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                   |
| 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. |

**Schedule 10 - OFFICERS' CODE OF CONDUCT****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.

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(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.	
<b>Personal Standards</b>	
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).	
<b>Competence Standards</b>	
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.	
<b>Council Policies, etc.</b>	
4.5 The Council has a Constitution, Financial Regulations 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.	

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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 main Acts, the first and second being the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR) that provide a rights to request access from the general public for information the council holds. The 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

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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.



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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.										
<b>9.</b>	<b>OUTSIDE COMMITMENTS</b>										
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, or the Assistant Director - People.										
<b>10.</b>	<b>PERSONAL INTERESTS</b>										
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 HR & Organisational Development and Monitoring Officer.										
	<b>Reporting hierarchy for financial and non-financial interests</b>										
	<table><thead><tr><th>Officer:</th><th>Reports to:</th></tr></thead><tbody><tr><td>Chief Executive</td><td>Monitoring Officer</td></tr><tr><td>Executive Director</td><td>Chief Executive</td></tr><tr><td>Assistant Director/Head of Service</td><td>Executive Director</td></tr><tr><td>All other employees</td><td>Executive Director</td></tr></tbody></table>	Officer:	Reports to:	Chief Executive	Monitoring Officer	Executive Director	Chief Executive	Assistant Director/Head of Service	Executive Director	All other employees	Executive Director
Officer:	Reports to:										
Chief Executive	Monitoring Officer										
Executive Director	Chief Executive										
Assistant Director/Head of Service	Executive Director										
All other employees	Executive Director										
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.										
<b>11.</b>	<b>EQUALITY ISSUES</b>										
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.										
<b>12.</b>	<b>SEPARATION OF ROLES DURING TENDERING</b>										
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.										

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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 or your 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.
<b>13.</b>	<b>BRIBERY</b>
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.
<b>14.</b>	<b>USE OF FINANCIAL RESOURCES</b>
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.
<b>15.</b>	<b>HOSPITALITY AND GIFTS</b>
15.1	<b><i>Introduction</i></b>
	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:
	<ul style="list-style-type: none"><li>• your honesty;</li><li>• your ability to deal impartially and equitably with all service users, potential or actual contractors or suppliers;</li><li>• your commitment and ability to pursue the best interests of the Council.</li></ul>
	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.

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	<p>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.</p> <p>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.</p>
<b>15.4 Prizes</b>	<p>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.</p>
<b>15.5 Registers of Disclosures and Interests and Gifts and Hospitality</b>	<p>The Council's Register of Disclosures and Interests and Register of Gifts and Hospitality are held by the Monitoring Officer</p> <p>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</p>
<b>15.6 Confidential Reporting or Whistleblowing</b>	<p>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.</p>
<b>16. SPONSORSHIP - GIVING AND RECEIVING</b>	
16.1	<p>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.</p>
16.2	<p>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.</p> <p>You must register any such interest with the Monitoring Officer.</p>
16.3	<p>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.</p>
<b>17. DISCIPLINARY RULES</b>	
17.1	<p>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 &amp; 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.</p>

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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.	

### 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)		



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<b>1</b>	<b>Underlying Principles</b>
	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.
<b>2</b>	<b>The role of Members</b>
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 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
<b>3</b>	<b>The role of officers</b>
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.. 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

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	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.
<b>5</b>	<b>The relationship between the Overview and Scrutiny Committees and officers (when Executive decisions are being scrutinised)</b>
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.
<b>6</b>	<b>Officer relationships with party groups</b>
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.

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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.
<b>7</b>	<b>Members in their ward role</b>
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.
<b>8</b>	<b>Member access to documents and information</b>
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.

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<b>9</b>	<b>Media, social media comments/postings and correspondence (including e-mails)</b>
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.
<b>10</b>	<b>Enforcement</b>
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..
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 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.

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### 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?

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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 preceding 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.

### 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;



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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
3.4.5	the law relating to state aid
3.4.6	the Council’s financial procedure rules
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 Code of Conduct for Councillors and the code of conduct for officers.

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

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

- 3.8 For the Council:
- 3.8.1 direct financial loss from entering into contracts which are not good value for money for the Council, for example as a result of commitment to buy goods which are not of an appropriate standard, or to buy land where we have failed to establish that there are large liabilities for repairs or for clearing contamination;
  - 3.8.2 inability to enforce the contract or to recover damages for breach;
  - 3.8.3 liability to third parties, for example if the Council were to enter contracts for road-works or construction without appropriate nuisance and contamination conditions, or without securing appropriate indemnities from the contractor against damage to third parties;
  - 3.8.4 liabilities where a decision made by or on behalf of the Council is overturned on judicial review because it is held to have been unlawful or unreasonable, or in breach of the Human Rights Act;

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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	<u>For individual Councillors:</u>	
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	<u>For an officer:</u>	
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, 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 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.

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. When this provision is used it will be especially important to ensure, before concluding any such negotiation, 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.

## **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 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.

### **1.2 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.

### 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.

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2.5.2	References to the “value” or “cost” of any gift or hospitality are references to the higher or:
(a)	your estimate of the cost to the person or organisation of providing the gift or consideration;
(b)	the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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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

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# 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 **Assistant Director Growth and Regeneration** / 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



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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 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.

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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;

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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 **Assistant Director Growth and Regeneration** 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 to object to an application;

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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

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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.	

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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 **Assistant Director Growth and Regeneration**.

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 **Assistant Director – Growth & Regeneration** 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 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

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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.



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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 within 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.

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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.

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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 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

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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 **Assistant Director – Growth & Regeneration** 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.

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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 **Information Governance Manager**, who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, s/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, Executive, Executive Member,

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	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, Executive, 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 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;

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2.2.14	subject to the approval of the Audit & Governance Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and
2.2.15	appoint a deputy and keep him or her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer.
2.3	To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
2.4	The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).
2.5	To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.
<b>3</b>	<b>SANCTIONS FOR BREACH OF TAMWORTH'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL</b>
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 Executive members do not need to declare their 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:**

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(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, 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 £5,864 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 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.

**6.4 Part-year Entitlements**

6.4.1 The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

6.4.2 If an amendment to this scheme changes that amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or

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<ul style="list-style-type: none"> <li>(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;</li> <li>(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.</li> </ul>	
6.4.3	Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
6.4.4	Where this scheme is amended as mentioned in sub-paragraph (2) and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such part of the basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with the sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.
6.4.5	Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
6.4.6	Where this scheme is amended as mentioned in sub-paragraph (2) and a Councillor has during part, but does not have throughout the whole, or any period mentioned in sub-paragraph (2) (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillors entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.
<b>6.5</b>	<b>Payments</b>
6.5.1	Payment shall be made in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one-twelfth of 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;
6.5.2	Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of Paragraph 8 he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

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<b>6.6 Approved Duties</b>	
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 Chief Executive, Head of Paid Service or Monitoring Officer after consultation if necessary with the Executive, 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.	
<b>6.7 Travelling</b>	
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.	
<b>6.8 Subsistence</b>	
<b>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.</b>	
<b>6.9 Attendance at Conferences and Training Events</b>	
The Chief Executive / <b>Executive Director Organisation</b> , after consultation with the Executive 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.	
<b>6.10 Childcare and Dependent Relatives Allowance</b>	
Payment for childcare and dependent relatives’ allowance will be in accordance with Schedule 2.	
<b>6.11 Claims Payment</b>	
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.	
<b>6.12 Variation</b>	
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.	

**SCHEDULE 1**

The Council determined a Basic Allowance per annum of £5,864

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:-

Basic Allowance	£5,864.00
Leader of the Council	£14,676.00
Deputy Leader of the Council	£11,005.00
Member of Executive (other than Leader & Deputy)	£9,539.00
Chairs of Scrutiny Committees	£6,604.00
Chair of Planning Committee	£6,604.00
Chair of Audit & Governance Committee	£3,667.00
Chair of Licensing Committee	£1,467.00
Leader of Larger Opposition Group	£6,604.00
Deputy Leader of Larger Opposition Group	£3,667.00
Deputy Leader of Larger Opposition Group (7 or less members)	£2,201.00
Leader of Minor Opposition Group (4 or more members)	£1,467.00



**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, Rates of pay are detailed below.

23 and over	21 to 22	18 to 20	Under 18	Apprentice
£10.42	£10.18	£7.49	£5.28	£5.28 - T

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

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### 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

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9.The ability to work effectively with Council officers, the public, the media and outside organisations	

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### 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

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### 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

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9. Ability to work as part of a team



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### **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

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### 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

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### 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

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### 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

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### DEPUTY LEADER OF THE OPPOSITION

#### Purpose

To deputise for the Leader of the Opposition Group in his absence.

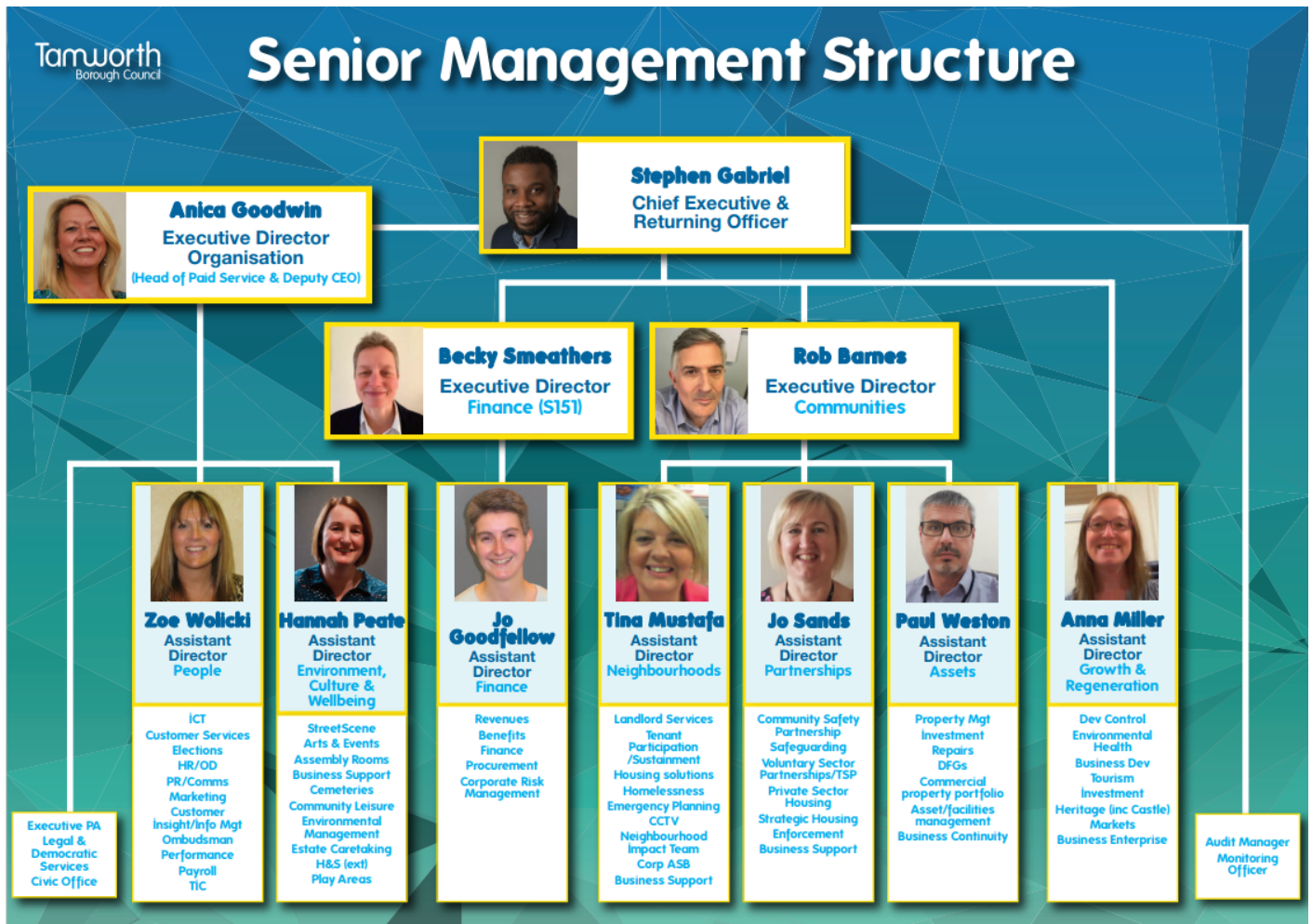
#### Duties and Responsibilities

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
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**PART 7 - MANAGEMENT STRUCTURE**



<b>Page number</b>	<b>Update</b>
Front cover	Edition and date to be amended
Page 2	Slight reword The Executive detailed twice
Page 3	Remove the main switchboard and add email address
Page 5	2.2.1 (b) slight reword in line with legislation.
Page 7	Complaints information amended slightly
Page 13	Joint Code – SCC Overview & Scrutiny addition.
Page 20	2.8.3 – Updated to cover updated polices
Page 21	Officer details updated
Page 24	Housing Advisory Board details added
Page 26	Officer details updated
Page 31	Officer details updated
Page 35 - 38	3.2 Licensing details updated following policy updates
Page 39	3.2 A&G - Authorised officer details updated
Page 52	10. Authorised officer details updated
Page 40	Delegated Executive Functions - updated details to be added
Page 54-55	28.Data Protection details added – previously blank.
Page 55	30. Authorised officer details updated
Page 62	44. Authorised officer details updated
Page 71	Scheme of delegation update: First Homes matters – To consider and deal with all approvals, consents, compliance, and any matters arising therefrom pursuant to the Governments First Homes Programme. AD Partnerships
Page 76	Officer details updated
Page 77	11. Slight amendment / officer details updated
Page 84/85	(ii) Officer details updated
Page 86	1. Extent of delegation updated
Page 87	1. Delegation updated following relevant policy updates
Page 88 - 98	A number of additions & deletions, due to either relevant policy updates or legislation/regulation changes.
Pag 100	Officer details updated
Page 101	Localism Act section 30/31/ 33 Slight addition in line with legislation.
Page 105	81- 84 Officer details updated
Page 110	Officer details - updated
Page 126	4.15.1 – removal of in March (SOTD is called annually and detailed in the municipal year calendar.
Page 167	14.c Officer details updated
Page 168	Officer details updated
Page 225	Officer details updated
Page 228	Officer details updated
Page 231	Officer details updated

Page 232	Officer details updated
Page 236	Officer details updated
Page 238	Officer details updated
Page 246	<b>Fees</b> -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. Removal in line with legislation
Page 247	6.9 Officer details updated
Page 249	Childcare elements updated Removed - for carers aged between 21 - 24 at a rate of £7.70 per hour and carers aged 18-20 at a rate of £6.15 per hour and carers aged 16-17 at a rate of £4.35 per hour. Apprentices under 19 or in the first year of their apprenticeship £3.90.
Page 261	New structure chart
All pages	Formatting to be checked prior to finalisation



Tuesday, 9 July 2024

## Report of the Leader of the Council / Monitoring Officer

### Member Code of Conduct review

#### Exempt Information

None

#### Purpose

To obtain the Council's approval to the revised code of conduct procedures

#### Recommendations

1. That the Council approve and adopt the Council's revised code of conduct procedures at **Appendix 1**.
2. That the Council approve and adopt the Council's revised documentation at **Appendix 2** and associated code of conduct form at **Appendix 3**.
3. That the Council approve the revised code of conduct to be applied to new complaints received after 9<sup>th</sup> July 2024.
4. That the Council delegates responsibility to the Monitoring Officer for the updating of the Councils Constitution to reflect the recommendations contained within the report.

#### Reason for recommendations

All local authorities are required to have a local Code of Conduct and to ensure that the Council's Code of Conduct is and continues to be fit for purpose.

#### Executive Summary

Section 27(2) of the Localism Act 2011 requires local authority must adopt 'a code dealing with the conduct that is expected of councillors (members and co-opted members) of the authority when they are acting in that capacity.

#### Options Considered

- 1 Review the current members code of conduct
- 2 Do nothing and continue with the Council's existing code of conduct

The existing code of conduct was implemented back in 2014. As part of good practice, the Council should regularly review the code of conduct and consider whether changes should be made.

#### Resource Implications

There are no resource implications as a result of this report.

#### Legal/Risk Implications Background

Section 27 of the Localism Act 2011 requires each local authority has to adopt a Members' Code of Conduct.

To have a policy that is not user friendly nor easy to operate poses issues for all and any parties involved in a Code of Conduct issue. A policy difficult to understand and operate can put a complainant off from raising an issue and at the same time may not offer the protection required to a defendant. This in turn could lead to a legal challenge and potentially judicial review. A more user friendly and coherent policy reduces this risk to the organisation

### **Equalities Implications**

There are no equality implications arising from this report. The requirement of the code for Councillors to promote equalities and to not discriminate unlawfully against any person, remains unchanged under these proposals.

### **Environment and Sustainability Implications (including climate change)**

There are no identified environment and sustainability implications as a result of this report.

### **Background Information**

The Localism Act requires all Councils to have a local Member Code of Conduct. The Council's previous Code was adopted in 2014, and as part of good practice should be reviewed on a regular basis.

The Committee for Standards in Public Life (CSPL) [report on Local Government Standard](#) found that there was considerable variation in the length, quality, and clarity of codes of conduct. This the CPSL said created confusion among members of the public, and among councillors who represent more than one tier of local government.

Many codes of conduct the CPSL said failed to address adequately important areas of behaviour such as social media use and bullying and harassment. It therefore recommended that an updated model code of conduct should therefore be made available to local authorities to enhance the consistency and quality of local authority codes.

In response to this report the Local Government Association (LGA) commissioned a new model code of conduct, [the principles of which reported to the Audit & Governance Committee \(A&G\)](#).

On the [9<sup>th</sup> February 2023](#) Audit & Governance committee endorsed the new LGA model code of conduct, including a review of the code of conduct process. A summary of differences between the Council's current code and the new LGA model is summarised in **Appendix 4**, with a report submitted to the Audit & Governance meeting of [15<sup>th</sup> November 2023](#) where the committee endorsed the recommendation to Council for adoption of the revised code of conduct process.

In June 2023, the Local Government Association (LGA) conducted a [survey](#) to capture data on the LGA Model Councillor Code of Conduct (the "Model code"). The aim of the project was to gauge the impact of the Model code. This was done by measuring the number of councils which have adopted it and the effects the Model code of conduct has had on councils.

Of the councils which reviewed their code of conduct, 97 per cent used the Model code to inform their review, and in total across England, 63 per cent of councils have adopted the Model code either completely or partially and 37 per cent have not.

**Report Author**

Nicola Hesketh – Monitoring Officer

**List of Background Papers**

None

**Appendices**

Appendix 1 – Revised Members Code of Conduct

Appendix 2 - Local Code of Conduct Complaint Form

Appendix 3 - Procedure for making Complaints against a Councillor for an alleged breach of the Code of Conduct

Appendix 4 – Summary of differences

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## Schedule 9 – Members Code of Conduct

### Introduction

The Council has a statutory duty under Section 27 of the Localism Act, 2011 to promote and maintain high standards of conduct by members and co-opted members of the Council.

This Code of Conduct was adopted by Tamworth Borough Council at a meeting held on \*\*\*\*.

Complaints alleging a failure to comply with this Code of Conduct will be considered in accordance with the procedure agreed by the Council which is available on the Council's website.

### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors, and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

#### **In accordance with the public trust placed in me, on all occasions:**

- I act with integrity and honesty,
- I act lawfully,
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

#### **In undertaking my role:**

- I impartially exercise my responsibilities in the interests of the local community,
- I do not improperly seek to confer an advantage, or disadvantage, on any person,
- I avoid conflicts of interest,

- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

### **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **1. Respect**

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions, and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with partners, members of the public, officers, elected members and other stakeholders, you should treat them politely and courteously. Rude and offensive behaviour lowers those (as mentioned above) expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public (as those mentioned above) are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor/officer protocol.

## **2. Bullying, harassment and discrimination**

As a councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

As a councillor:

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

As a councillor:

#### **4.1 I do not disclose information:**

- a. Given to me in confidence by anyone**
- b. Acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless;**
  - I. I have received the consent of a person authorised to give it;**
  - II. I am required by law to do so;**
  - III. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - IV. the disclosure is:**
    - 1. Reasonable and in the public interest; and**
    - 2. Made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**
- 4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- 4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.



## 5. Disrepute

As a councillor:

### 5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## 6. Use of Position

As a councillor:

### 6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## 7. Use of local authority resources and facilities

As a councillor:

### 7.1 I do not misuse council resources.

### 7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support

- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

As a Councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

As a councillor:

#### **9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendix A - The Seven Principles of Public Life**

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Nonparticipation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in

exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council. -</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

<p><b>Corporate tenancies</b></p>	<p>Any tenancy where (to the councillor's knowledge): (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of</p>
<p><b>Securities</b></p>	<p>Any beneficial interest in securities* of a body where: (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

- a. any unpaid directorships
- b. any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c. any body
  - i. exercising functions of a public nature
  - ii. directed to charitable purposes or



- iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

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## LOCAL CODE OF CONDUCT COMPLAINT FORM

### Introduction

You can use this form if:

- You want to make a complaint about a Councillor, or a co-opted member of a Tamworth Borough Council (a co-opted member is someone who has been appointed to the Council rather than elected).
- The complaint is about the conduct of a councillor while they were in office. We cannot consider the conduct of an individual before or after they were in office.
- The councillor(s) has/have or may have breached the Code of Conduct. A copy of the Code of Conduct and Frequently Asked Questions are available on the [Council's website](#). You may also contact the Monitoring Officer, Nicola Hesketh, if you require further information.

Please do not use this form if you are unhappy with:

- A decision or action of the Council or one of its committees.
- A Council service.
- The Council's procedures.
- The actions of people employed by the Council.

If you wish to make a complaint about any of these please refer to the Council's [Comments, Compliments & Complaints policy](#) which is available online. If you require a copy of the policy in a different format, please contact Customer Services on 01827 709709 or by email at [enquiries@tamworth.gov.uk](mailto:enquiries@tamworth.gov.uk).

### Privacy Information

Any personal data that you provide to Tamworth Borough Council will be handled in line with the requirements of the UK-GDPR. You can find more information on how your personal information is processed by viewing our [Privacy Statement](#) online. If you require a copy of the privacy notice in a different format, please contact Customer Services on 01827 709709 or by email at [enquiries@tamworth.gov.uk](mailto:enquiries@tamworth.gov.uk).

**Additional Help**

Complaints must be submitted in writing. This includes electronic submissions.

You must submit your complaint to: The Monitoring Officer

**Post:**

Marked Private & Confidential to: Monitoring Officer  
Tamworth Borough Council  
Marmion House  
Lichfield Street  
B79 7BZ

**Email:** [members-complaints@tamworth.gov.uk](mailto:members-complaints@tamworth.gov.uk)

If you have any queries regarding the process, further information can be found on the website at: [Governance and Anti-Fraud | Tamworth Borough Council](#), or you can email the Monitoring Officer using the email address above.

If you need help in completing the form (in line with the requirements of the Equality Act 2010), please contact Democratic services on [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk) or by telephoning 01827 709254.

**Your details**

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Contact Number/s:</b>	
<b>Email address:</b>	

2. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Council:

Title	First name	Last name	Council or authority name
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3. Please identify (marking with an X in the right-hand side column)) which paragraphs of the Code of Conduct you believe have been breached (as set out in the Tamworth Brough Council Members' Code of Conduct)

<b>General Conduct &amp; protecting your reputation &amp; the reputation of the local Authority.</b>	<b>Mark with an X which paragraphs of the Code of Conduct you believe have been breached</b>
Respect	
Bullying, harassment, and discrimination	
Impartiality of officers of the council	
Confidentiality and access to information	
Disrepute	
Use of Position	
Use of local authority resources and facilities	
Complying with the Code of Conduct	
Interests	
Gifts and hospitality	

**Declarations of Interest**

4. Please identify (marking with an X in the right-hand side column)) which paragraphs of the Code of Conduct you believe have been breached (as set out in the Tamworth Brough Council Members' Code of Conduct)

<b>Declaration of Interest</b>	<b>Please indicate by reference to the list below and the <u>Code of Conduct</u> what breach you believe has been committed, by marking with an X in this column</b>
Failure to declare a Disclosable Pecuniary Interest	
Participation at a meeting (speaking or voting) where Disclosable Pecuniary Interest exists	
Chairperson failing to disclose Disclosable Pecuniary Interest	

Chairperson participation in a meeting or decision where Disclosable Pecuniary Interest exists	
Failure to declare Other Registrable Interest (Unpaid directorship)	
Failure to declare Other Registrable Interest (Council appointment)	
Failure to declare Other Registrable Interest (Membership of public body)	
Failure to declare Other Registrable Interest (Membership of charitable body)	
Failure to declare Other Registrable Interest (Membership of a body which influences public opinion or policy)	
Failure to declare a Non-registrable Interest which directly relates to the Subject Member's financial interest or well-being or a financial interest or well-being of a relative or close associate of that Subject Member.	
Failure to declare a Non-registrable Interest which affects the Subject Member's financial interest or wellbeing.	
Failure to declare a Non-registrable Interest which affects the financial interest or well-being of a relative or close associate of that Subject Member.	
Failure to declare a Non-registrable Interest which affects the financial interest or well-being a body of which the Subject Member is an unpaid director.	
Failure to declare a Non-registrable Interest which affects the financial interest or well-being a body of which the Subject Member is a Council appointee.	
Failure to declare a Non-registrable Interest which affects the financial interest or well-being a public body of which the Subject Member is member.	
Failure to declare a Non-registrable Interest which affects the financial interest or well-being a charitable body of which the Subject Member.	
Failure to declare a Non-registrable Interest which affects the financial interest or well-being a body which influences public opinion or policy of which the Subject Member.	
Chairperson participation in a decision where an Other Registrable or Non-Registrable Interest exists	

5. Please explain in this section (or on separate sheets) what the councillor(s) has/have done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor, you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates, it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**Only complete this next section if you are requesting that your identity is kept confidential.**

6. In the interests of fairness and natural justice, the Council believes that Councillor(s) who are complained about have a right to know who has made the complaint against them and the nature of that complaint. The Council are unlikely to withhold your identity or the details of your complaint unless there are exceptional circumstances.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**7. Signature:**

I understand that, by signing this form I:

- Give Tamworth Borough Council permission to provide my name, together with a copy of this complaint and any evidence supplied in support [subject to data protection rules] to the individual(s) against whom the complaint has been made.
- Acknowledge that:
  - the complaints process is confidential and that (with the exception of a professional advisor retained for those purposes who is also bound by a duty of confidentiality), the parties to the complaint must not pass on any information relating to the complaint to any third party without first obtaining the written permission of the Monitoring Officer.
  - any complainant who fails to comply with the confidentiality requirements risks being found to have contravened the process which may result in no further action being taken on their complaint.

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## **Procedure for making Complaints against a Councillor for an alleged breach of the Code of Conduct**

### **1. Introduction**

- 1.1. These procedures set out how you may make a complaint that a Councillor (elected or co-opted member) of this Council has failed to comply with the Councillors Code of Conduct. The procedures set out how the Council will deal with any allegations of a failure to comply with the Councillors 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 Councillor (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 may 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
- 1.4. In these arrangements a number of terms are used which have the following meanings:

Member	An elected Councillor
Councillor	A person who is an elected member of the Council
Co-opted Member	A person who is not an elected member of the Council but has been appointed to a committee or sub-committee of the Council.
Monitoring Officer	An officer of the Council designated under section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its members and officers act lawfully at all times.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to investigate an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the Localism

	Act 2011, whose views maybe sought and considered before decisions upon allegations against members are taken and who may be consulted by a member who is the subject of allegations or the Council, generally.
Hearing Sub-Committee	A Sub-Committee of Audit & Governance established to conduct hearings into allegations against members and to determine such allegations following a hearing.

## 2. The Code of Conduct

- 2.1. The Council has adopted a Code of Conduct for Councillors, 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.

## 3. Making a Complaint

- 3.1. An allegation that a Councillor of Tamworth Borough Council has failed to comply with the Councillors Code of Conduct should be made in writing, wherever possible, using the Complaint Form on the Council's website and sent to:

The Monitoring Officer,  
Marmion House  
Lichfield Street  
Tamworth  
B79 7BZ

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. Any complaints received without a completed complaint form; one will be sent to you.
- 3.3. If you need help in completing the form please contact Legal and Democratic Services on Tel: 01827 709264, or by email at: [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk).
- 3.4. 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 Councillor misconduct. In the Monitoring Officer's absence, the Deputy Monitoring Officer has the same powers and responsibilities for the purposes of these procedures.

- 3.5. 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.
- 3.6. 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 Councillor against whom you make the complaint, without your prior consent. 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.
- 3.7. The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it and keep you informed of the progress of your complaint at the appropriate stages.
- 3.8. The Complaints Procedure Flowchart is annexed at **Appendix 1** for your assistance.
- 3.9. The Monitoring officer may inform the Councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in their opinion, to do so would risk an investigation being frustrated or prejudiced in some other way.

#### **4. Will your Complaint be Investigated?**

- 4.1. If the complaint is from one Councillor against another Councillor or from an Officer of the Council against a Councillor, then the Monitoring Officer will seek to resolve the issue without resorting to this complaint's 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 20 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, they will inform you of their decision and the reasons for

that decision. Where the Monitoring Officer requires additional information in order to come to a decision, they 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 councillor, 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, they 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 they need 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 councillor against whom you have complained and provide them with a copy of your complaint, ask the councillor to provide their explanation of events and identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the councillor might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the councillor, or delay notifying the councillor until the investigation has progressed sufficiently.
- 5.4. At the end of their investigation, the Investigating Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the councillor 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 they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the councillor concerned notifying you that they are 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, they may ask the Investigating Officer to reconsider their 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 Hearing Sub-Committee or, in consultation with the Independent Person, seek an informal resolution.

**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, they 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 councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the councillor 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.

**Hearing**

- 7.3. If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then a Hearing Sub-Committee will be convened, and members of the Hearing Sub-committee will decide whether the councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.
- 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 Sub-Committee, the Investigating Officer will present their report, call such witnesses as they consider necessary and make

representations to substantiate their conclusion that the councillor has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearing Sub-Committee. The councillor will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearing Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

- 7.6. The Hearing Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the councillor did not fail to comply with the Code of Conduct, and dismiss the complaint.
- 7.7. If the Hearing Sub-Committee concludes that the councillor did fail to comply with the Code of Conduct, the Chair will inform the councillor of this finding and the Hearing Sub-Committee will then consider what action, if any, the Hearing Sub-Committee should take as a result of the councillor's failure to comply with the Code of Conduct. In doing this, the Hearing Sub-Committee will give the councillor 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 Councillor 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 Councillors as may be necessary to promote and maintain high standards of conduct.

Accordingly, the Hearing Sub-Committee may:

- Publish its findings in respect of the councillor's conduct.
- Report its findings to Council for information.
- Recommend to Council that the councillor be issued with a formal censure or be reprimanded
- Recommend to the Councillors Group Leader (or in the case of ungrouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council.
- Instruct the Monitoring Officer to arrange training for the councillor.
- Remove the councillor from all outside appointments to which they have been appointed or nominated by the Council.
- Withdraw facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access.



- Exclude the Councillor 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.

## **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 Hearing Sub-Committee as to whether the councillor failed to comply with the Code of Conduct and any actions which the Hearing 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 Hearing Sub-Committee, and send a copy to you, to the Councillor, and report the decision to the next convenient meeting of Full Council.

## **10. Who is the Hearing Sub-Committee Members?**

- 10.1. It is a Sub-Committee comprising Councillors sitting on the Councils Audit & Governance Committee
- 10.2. It will comprise of three councillors appointed from Members of the Audit & Governance who will have been drawn from all political groups.
- 10.3. The Independent Person is invited to attend all meetings of the Hearing Sub-Committee and their views are sought and taken into consideration before the Hearing 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 they:
  - A) are, or has been within the past 5 years, a member, co-opted member, or Officer of the Authority
  - B) are a relative or close friend, of the complainant or the Councillor(s) against whom the complaint has been made

For the above purpose "relative" means:-

- A) Spouse or civil partner
- B) Living with the other person as husband or wife or as if they were civil partners

- C) Grandparent of the other person
- D) A lineal descendent of a grandparent of the other person
- E) A parent, sibling, or a child of a person within paragraphs 11.3.1 or 11.3.2
- F) A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 or
- G) 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

## **12. Revision of these Arrangements**

- 12.1. The Council may by resolution agree to amend these arrangements and has delegated to the Chair of Audit & Governance Committee the right to depart from these arrangements where they consider 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 councillor against a decision of the Monitoring Officer or of the Hearing 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:

Local Government and Social Care Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

Website [Local Government and Social Care Ombudsman](#)

Online: [Complaint Form](#)

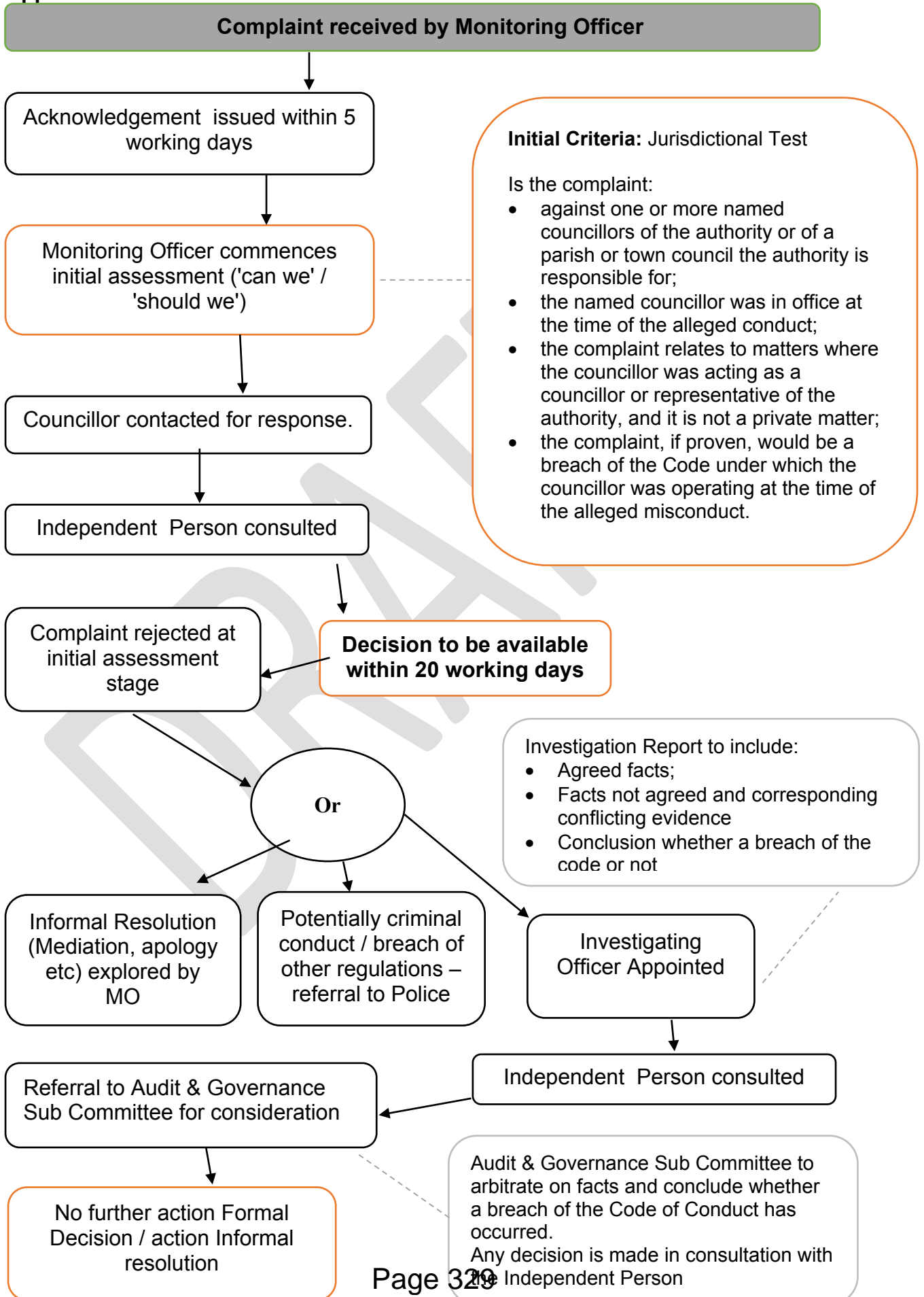
Telephone: 0300 061 0614

The telephone line is open:

- Mondays 10am to 1pm
- Tuesdays 10am till 1pm
- Wednesdays 1pm till 4pm
- Thursdays 10am till 1pm
- Fridays 10am till 1pm



**Appendix 1**



## **Appendix 2**

### **COMPLAINTS ASSESSMENT CRITERIA**

#### **1. Introduction**

The following criteria has been agreed to assist the Monitoring Officer in making an initial assessment of a code of conduct complaint and deciding what action, if any, to take.

Each complaint will be assessed on its own merits and the Monitoring Officer may consult the Independent Person before making a decision.

#### **2. Initial Assessment**

Before an assessment of a complaint begins, the Monitoring Officer, in consultation with the 'Independent Person' should be satisfied that the complaint meets the following tests:

- The complaint is against one or more named councillors of the authority or of a parish or town council the authority is responsible for;
- The named councillor was in office at the time of the alleged conduct;
- The complaint relates to matters where the councillor was acting as a councillor or representative of the authority, and it is not a private matter;
- The complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.

If the complaint fails one or more of the above tests it **cannot** be investigated as a breach of the Code, and the complainant will be informed that no further action will be taken in respect of the complaint.

A complaint will not be considered as a code of conduct complaint if:

- the complaint is about a council decision, the way the council conducts or records its meetings or the way the council has or has not done something;
- the complaint falls within the council's complaints procedure or
- the complaint is about a council officer e.g. a TBC employee.

The Code of Conduct applies whenever the councillor is "acting as a member of the authority". A complaint will not be considered as a Code of Conduct complaint where it is clear it is about a member's private life or about conduct other than when "acting as a member of the authority".

**3. Circumstances where it may be decided that no action should be taken in respect of the allegation.**

- 3.1. The complaint is not considered sufficiently serious to warrant investigation
- 3.2. The complaint appears to be simply motivated by malice or is “tit-for-tat”
- 3.3. The complaint appears to be politically motivated
- 3.4. 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
- 3.5. It is about someone who is no longer a member of the Council
- 3.6. There is insufficient information available for a referral
- 3.7. 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
- 3.8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out
- 3.9. 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
- 3.10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct
- 3.11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

**4. Complaints which may be referred to the Standards Committee**

- 4.1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee
- 4.2. 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
- 4.3. 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.
- 4.4. 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
- 4.5. 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, The Monitoring Officer must be mindful of the public money which may be incurred in arranging a formal investigation of a**

**complaint. Investigations are costly and time consuming and in some circumstances, complaints may be more effectively dealt with by informal resolution or other action. The Monitoring Officer will not refer complaints for investigation where the complaint is not sufficiently serious to justify the cost of an investigation, or it is not in the public interest to investigate.**

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## **Appendix 3**

### **COMPLAINTS INVESTIGATION PROCEDURE**

#### **1. Introduction**

**1.1.** This document sets out the procedure which will be followed once a decision has been taken that an allegation of a breach of the Code of Conduct by a Councillor should be investigated.

**1.2.** This document also sets out the process which will be followed when a report of an Investigating Officer reveals a breach of the Code of Conduct, and the Independent Person has taken a decision that a Hearing is required.

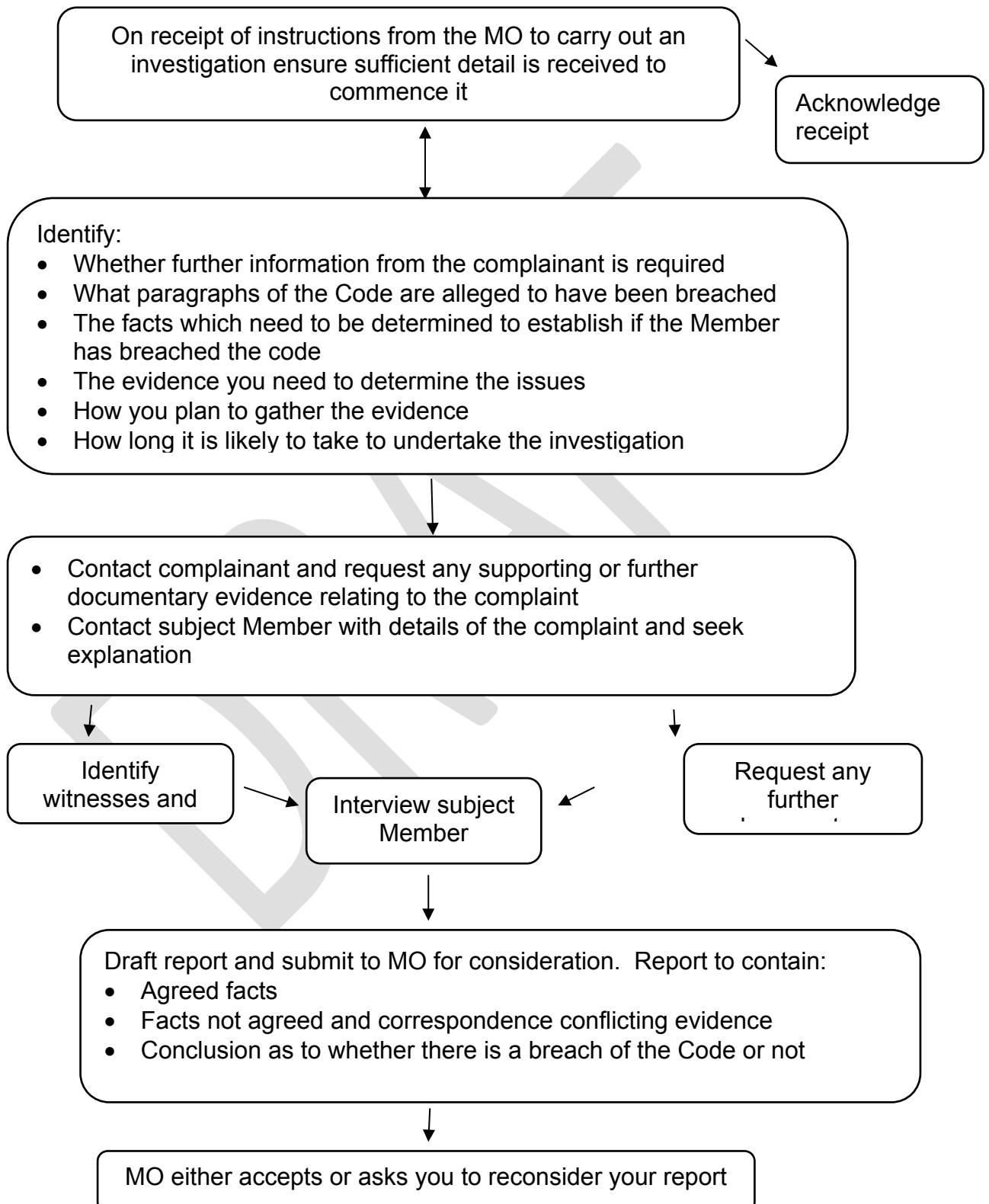
#### **2. The Appointment of the Investigating Officer**

**2.1.** Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct them to conduct an investigation of the alleged breach of the Code of Conduct and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation or if a conflict of interest occurs. The Investigating Officer may be an Officer of the authority or another authority or an external Investigating Officer

**2.2.** The Investigating Officer must maintain a written record to demonstrate what was considered at the start of the investigation and plan how they intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts they need to determine to establish, the evidence they will need, how they will plan to gather the evidence and how long it will take to conclude their investigation. To Note: there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

### 3. Conduct of Investigation

3.1. A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer (MO).



## **Appendix 4**

### **PROCEDURE FOR HEARINGS**

Hearings will where possible be held within two months of receipt of the Monitoring Officer (MO) of the investigator's final report.

#### **1. Quorum**

- 1.1. The Hearing will be before the Hearing Sub-Committee.
- 1.2. Three Members must be present throughout the hearing to form a quorum
- 1.3. One of the members will be elected Chairman
- 1.4. The MO or Deputy MO will be present as adviser to the Sub-Committee. The adviser can speak at any time to advise the Sub-Committee on technical matters or ask questions of any party.
- 1.5. The Independent Person appointed under Section 28 of the Localism Act 2011 will also be present.
- 1.6. Both the Councillor/s and complainant will be invited to appear. They may present their own case, or they may be represented.

#### **2. Hearing Opening / Introductions**

- 2.1. Election of Chairman of Sub-Committee
- 2.2. Exclusion of Press and Public
- 2.3. Declarations of Interest
- 2.4. Possible Adjournment (where applicable)
- 2.5. The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms etc.
- 2.6. The Chair introduces all those present.

#### **3. Investigating Officer**

- 3.1. 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 accepted.
- 3.2. 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)
- 3.3. 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.

#### **4. The Complainants Case**

- 4.1. The complainant (or their representative) may at this stage present their case (and call any witnesses as required by the complainant or their representative).
- 4.2. Members of the Sub-Committee may question the Member and/or any witnesses.

#### **5. The Councillors Case**

- 5.1. The Councillor against whom the complaint has been made (or their representative) may at this stage present their case (and call any witnesses as required by the Councillor or their representative).
- 5.2. Members of the Sub-Committee may question the Councillor and/or any witnesses.
- 5.3. Where the Councillor seeks to dispute any matter in the Investigation Report which they have not given notice of intention to dispute in their written statement in response, the Adviser shall draw this to the attention of the Sub-Committee.

The Sub-Committee may decide:

- a. not to admit such dispute but to proceed to a decision on the basis of the information contained in the report;
- b. to admit the dispute, but invite the Investigator, to respond thereto, recalling any witness as necessary; or
- c. to adjourn the meeting to enable the Investigator, to investigate and report on the dispute and/or to arrange for the attendance of appropriate witnesses as to the disputed information.

#### **6. Councillor Comments**

- 6.1. At the conclusion of the presentation by the Councillor, the Chairman shall ask the Investigator, whether there was any matter raised during the course of that presentation which was not raised in the Councillor's written statement in response.

The Investigator may then respond to any such new matter or may request the Sub-Committee to adjourn to enable them to investigate and report on that new matter and/or to secure the attendance of witnesses as to the new matter.



## **7. Decision**

- 7.1. The Sub-Committee will adjourn into another room with the Adviser & Independent Person where they will in private, deliberate to consider whether the Councillor has acted in breach of the Code of Conduct.
- 7.2. At the conclusion of their consideration, the Sub-Committee will return, and the Chairman will advise the Investigator and the Councillor of their decision as to whether the Councillor has acted in breach of the Code of Conduct and the reasons for that decision.
- 7.3. If the Sub-Committee decides that the Councillor has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Councillor as to:
  - a. whether any action should be taken, and
  - b. what form any action should take
- 7.4. The Sub-Committee will then adjourn into another room together with the Adviser and Independent Person where they will consider in a private session whether to take any action in respect of the Councillor and what form any such action should take.
- 7.5. Actions available to the Sub-Committee are as follows (this is not an exhaustive list)
  - a) Publish its findings in respect of the councillor's conduct.
  - b) Report its findings to Council for information.
  - c) Recommend to Council that the councillor be issued with a formal censure or be reprimanded
  - d) Recommend to the Councillors Group Leader (or in the case of ungrouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council.
  - e) Instruct the Monitoring Officer to arrange training for the councillor.
  - f) Remove the councillor from all outside appointments to which they have been appointed or nominated by the Council.
  - g) Withdraw facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access.
  - h) Exclude the Councillor 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.
- 7.6. On the Sub-Committee's return the Chair will announce the Sub-Committee's decision

- 7.7. 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
- 7.8. The Chair will confirm that a full written report of the Sub-Committees decision, with reasons, will be prepared and issued following the hearing and a copy sent to the complainant and the councillor.

**Meeting closed**

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<b>Summarised Difference</b>	<b>Current Code</b> <a href="#">Members Code of Conduct 2014.pdf (tamworth.gov.uk)</a>	<b>New Model Code</b> <a href="#">Local Government Association Model Councillor Code of Conduct 2020   Local Government Association</a>
Introduction	No introduction in the current Code of Conduct	Joint statement and Introduction provided
Terminology	Referred to as members	The new code uses the term “councillors” not “members”
Principles of public life	Nolan Principles -	The new code retains the Nolan Principles (which are in the current code) but adds an additional set of “General Principles”.
When the code applies		The new Code makes it much clearer when the Code applies i.e. which activities of a councillor are covered by its provisions.
Outcomes/behaviours	The current code sets out a series of “outcomes” which the Principles seek to achieve and to which members should adhere	The current code does not describe the behaviours that are required to produce the outcomes.  The new code approaches this in a different way and does set out detailed requirements for the behaviour of councillors. It is drafted in a very direct way
Declaration of Interests	The current code has two types of interest which require registration and/or declaration: -  • Disclosable Pecuniary Interests	The new code has three types of interest: -  • Disclosable Pecuniary Interests (DPI’s) • Other Registerable Interests • Non-registerable Interests

	<ul style="list-style-type: none"> <li>• Voluntary registration and declaration of interests</li> </ul>	
Gifts and Hospitality	<p>Current Code refers to this code and Schedule 15 of the Constitution.</p> <p>Registration of gifts and hospitality in excess of £25</p>	<p>The New Code requires the registration of gifts and hospitality in excess of £50 with additional provisions, for example:</p> <p>I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept</p>

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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