

TAMWORTH BOROUGH COUNCIL







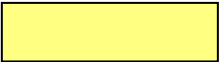
CONSTITUTION

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

Constitution of the Council

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Part 1

Summary and Explanation

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Summary and Explanation

The Council's Constitution

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

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

What's in the Constitution?

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

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

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, receives reports from the Leader and its scrutiny committees, answers questions from the public and holds an annual state of Tamworth debate.

How Decisions are made

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

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

Overview and Scrutiny

There are two overview and scrutiny committees who supports the work of the executive and 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'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 Mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees;
- find out, from the executive's forward plan, what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- attend meetings of the executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and executive;
- complain to the Council through the comments compliment and complaints procedure;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

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

Part 2

Articles of the Constitution

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Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

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

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

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

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

Article 2 – Members of The Council

2.01 Composition and eligibility

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

2.02 Election and terms of councillors

Election and terms. 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.

2.03 Roles and functions of all councillors

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

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

(b) **Rights and duties**

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

2.04 Conduct

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

2.05 Allowances

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

Article 3 – Citizens and The Council

3.01 Citizens' rights

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

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and to request a referendum for an elected Mayor form of Constitution. Citizens may request a councillor to present a petition to the Council on their behalf and to receive a response from the Council.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Cabinet when key decisions are being considered;
 - (iii) find out from the Forward Plan what key decisions will be taken by the Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet;
 - (v) inspect the Council's accounts and make their views known to the external auditor; and
 - (vi) seek information held by the Council under the Freedom of Information Act 2000.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its comments compliments and complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Council about a breach of the Councillor's Code of Conduct.

3.02 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.

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Article 4 – The Full Council

4.01 Meanings

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

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader;

- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them (except where the appointment to a committee is required to give effect to the wishes of a political group);
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- (l) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

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

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

4.04 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.

Article 5 – Chairing The Council

5.01 Role and function of the Mayor

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

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

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive are able to hold the executive to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and s/he determines appropriate.

5.02 Council Workplan and Conduct of Meetings

The Solicitor to the Council and Monitoring Officer shall arrange a meeting with the Mayor (or Mayor elect as the case may be) as and when required to agree the workplan for the forthcoming year and to clarify the expected outputs from the mayor as Chair of the Meetings and the behaviour of Councillors.

Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

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

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

comprise nine members of the Council and one co-opted member with voting rights being a member nominated by Staffordshire County Council)

primary outcome of creating a safe environment in which local people can reach their full potential and live longer, healthier lives by scrutinising the performance of the Cabinet in:-

- Addressing the causes of poor health in children and young people;
- Improving the health and well being of older people by supporting them to live active, independent lives;
- Reducing the harm and wider consequences of alcohol abuse on individuals, families and society;
- Implementing 'Total Place' solutions to tackling crime and ASB in designated localities;
- Developing innovative early interventions to tackle youth crime and ASB;
- Creating an integrated approach to protecting those most vulnerable in our local communities.

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.

The Committee shall review and scrutinise matters relating to the planning, provision and operation of health services in the area of the Tamworth local authority aimed at improving the health of the people in Tamworth. The Committee would scrutinise the role of the Councils, together with that of Social Services, the voluntary sector, the Primary Care Trust and other National Health Service providers for each District Council.

To make reports and recommendations on any matter so reviewed or scrutinised in accordance with the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 (Statutory Instrument 2002 No. 3048)

To aid partnership working, the Committee will have the ability to co-opt partners. This would include representatives from the Health Trusts,

	<p>Social Services, the voluntary sector and other partner organisations.</p> <p>The Committee shall act as the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006 and may co-opt additional members subject to the Crime and Disorder Overview and Scrutiny) Regulations 2009.</p> <p>The Committee may make a report or recommendation to the Council with respect to any matter which is a local crime and disorder matter.</p> <p>The Committee shall undertake a review annually of crime and ASB issues in Tamworth.</p> <p>Any member of the Council who is not a member of the Committee may refer a local crime and disorder matter to the Committee by including the matter on the agenda for discussion.</p>
<p><i>For All Committees</i></p>	<ul style="list-style-type: none"> • Policy Development • Service Delivery & Performance • Use of technology to ensure access and equality • Use of Corporate assets • Finance • Local Area Agreements

6.02 General role

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

- i) 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;
- ii) prepare an annual scrutiny work plan covering two successive periods of six months and to make reports and/or recommendations bi-annually to the full Council and/or the executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants; and

- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any policy or area committees.
- v) Appoint Task and Finish Groups as and when requires with no more than two operating at any one time. Normally the Chair and Vice-Chair of the Committee would Chair these groups and there would be an expectation that these groups would co-opt external expertise.

6.03 **Specific functions**

(a) **Policy development and review.** Overview and scrutiny committees and sub-committees may:

- i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the executive and committees and chief officers about their views on issues and proposals affecting the area; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- vi) Arrange for or carry out best value reviews

(b) **Scrutiny.** Overview and scrutiny committees and sub-committees may:

- i) review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question members of the executive and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- iv) make recommendations to the executive and Council arising from the outcome of the scrutiny process;
 - v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
 - vi) question and gather evidence from any person with their consent.
- (c) **Finance.** Overview and scrutiny committees and sub-committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** Overview and scrutiny committees and sub-committees may exercise overall responsibility for the work programme of the officers employed to support their work.

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

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

Article 7 – The Executive

7.01 Role

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

7.02 Form and composition

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

7.03 Leader

The Leader will be a councillor elected to the position of Leader by the Council at the annual Council meeting. The Leader will hold office from the date s/he is elected as leader until the next annual Council meeting or until:

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

7.04 Other executive members

The Leader will nominate one member of the Executive as a deputy 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 suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.05 Proceedings of the executive

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

7.06 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

7.07 Member Champions

The Leader may at the Annual meeting of the Council, appoint Members to act as champions in such areas as he deems appropriate.

Article 8 – Planning Committee

8.01 Planning Committee

The Council meeting will establish a Planning Committee.

8.02 Composition

- (e) **Membership.** The Planning Committee will be composed of:
- 10 Members
- (f) **Chairing the Committee.** Any member may chair the committee including a member of the executive.

8.03 Role and Function

The Planning Committee will have the roles and functions set out in Part 3 (Responsibility for Functions).

Article 9 – Licensing Committee

9.01 Licensing Committee

The Council meeting will establish a Licensing Committee.

9.02 Composition

- (a) **Membership.** The Licensing Committee will be composed of:
- 15 Members
- (b) **Chairing the Committee.** Any member may chair the committee including a member of the executive.

9.03 Role and Function

The Licensing Committee will have the following roles and functions:

Those functions conferred on the Council in relation to licensing (including liquor licensing), registration, health & safety as contained in Schedule 1, Part B (1-46, 56-70), Part C (whole), Part I (42) of the Local Government (Functions & Responsibilities) (England) Regulations 2000 (as amended)

To determine matters under the Licensing Act 2003 and Gambling Act 2005.

Article 10 – Audit & Governance Committee

10.01 Audit & Governance Committee

The Council meeting will establish an Audit & Governance Committee.

10.02 Composition

(c) **Membership.** The Audit & Governance Committee will be composed of at least:

- five councillors other than a member of the Executive or Chair of any Scrutiny Committee

(d) **Independent members.** The Committee may co-opt up to two independent (non-elected) non-voting persons as and when it deems appropriate, for a period or periods it may determine.

(e) **Chairing the Committee.** The Chairman and Vice-Chairman will be appointed in accordance with Council Procedure Rules.

10.03 Role and Function

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

(a) Audit Activity

- Receive, but not direct, internal audit's strategy and audit plan
- Consider reports dealing with the management and performance of Internal Audit
- Consider the head of Internal Audit's annual report and opinion, and the level of assurance Internal Audit can give over the Council's corporate governance arrangements.
- 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.
- Consider the final external audit Annual Audit and Inspection letter and any other relevant reports to "those charged with governance".

(b) Regulatory Framework

- Maintain an overview of the Council's Constitution, including Contract Standing Orders, Financial Regulations and Codes of Conduct.

- 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.
 - 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.
 - 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.
 - Monitor the effective development and operation of the corporate governance framework in the Council and to recommend to the Cabinet or the Council, as appropriate, the actions necessary to ensure compliance with best practice.
 - Monitor the effectiveness of the Council's policies and arrangements for anti-fraud and corruption and whistle-blowing, complaints handling, RIPA and Ombudsman investigations.
- (c) Accounts
- Approve the annual statement of accounts, external auditor's opinion and reports to members and monitor management action in response to the issues raised by external audit.
- (d) Reports to Council
- Reports in the form of Minutes detailing action taken by the Committee and recommendations will be submitted to Council.
- (e) Delegated Powers
- The Committee is empowered to deal with the functions detailed above.
- (f) Standards of Conduct

Upon the coming into force of the provisions of Chapter 7 of the Localism Act 2011 relating to standards of conduct and the adoption of a code of conduct under that Act this Committee shall exercise all the functions of the Council relating to standards 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.

Article 10A – Nominations Committee

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

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

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

Article 11 – Standards Committee

Upon the coming into force of the provisions of Chapter 7 of the Localism Act 2011 relating to standards of conduct and the adoption of a code of conduct by the Council under that Act this Article 11 shall subject to the requirements of any transitional provisions cease to apply.

11.01 Standards Committee

The Council meeting will establish a Standards Committee.

11.02 Composition

(a) **Membership.** The Standards Committee will be composed of at least:

- five councillors other than the Leader
- four persons who are not a councillor or an officer of the council or any other body having a Standards Committee (an independent member) appointed in accordance with the Standards Committee (England) Regulations 2008;

(b) **Independent members.** Independent members will be entitled to vote at meetings;

- (c) **Sub-committees.** In order to fulfil its statutory function the committee shall appoint sub-committees consisting of three members of which at least one member shall be Independent. The Independent member shall also be the chair of any such sub- committee. No member of an initial assessment sub-committee shall be part of a review sub-committee dealing with the same complaint.
- (d) **Chairing the Committee.** An independent member must chair the committee.

11.03 Role and Function

The Standards Committee will have the following roles and functions:

1. promoting and maintaining high standards of conduct by councillors and co-opted members;
2. assisting the councillors, and co-opted members to observe the Members' Code of Conduct;
3. advising the Council on the adoption or revision of the Members' Code of Conduct;
4. monitoring the operation of the Members' Code of Conduct;
5. advising, training or arranging to train councillors, and co-opted members on matters relating to the Members' Code of Conduct;
6. granting dispensations to councillors, and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
7. dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred to the monitoring officer.
8. To discharge such other functions, either general or specific, as the Council may from time to time allocate to the Committee (or the Committee may become responsible for under any relevant legislation) and, without prejudice to the foregoing, to determine:-
 - (i) any matters referred to it by the Monitoring Officer or a complainant;
 - (ii) whether any Member should be sanctioned in accordance with the law;
 - (iii) whether any Members' Allowances should be withheld in the event of a breach of the Code of Conduct for Members being upheld either by the Standards Committee and/or the Adjudication Panel for England;

(iv) on receipt of an application, if any legal representation or legal expenses ought to be paid by the Council to any Member with regard to any breach of the Code of Conduct for Members referred to the First Tier Tribunal and/or the Standards Committee; and

(v) any dispensations and to deal with other powers granted to Standards Committees by relevant legislation (for example, local filtering of complaints against Elected Members).

9. To submit an Annual Report on the work of the Standards Committee and, generally, promoting high standards of ethical conduct and behaviour expected of Members.

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Article 12 – Officers

12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

Post

Chief Executive

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

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

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

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

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

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

12.02 Functions of the head of paid service

- (a) **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the

Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

- (b) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

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

- i. **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- ii. **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the executive in relation to an executive function if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- iii. **Supporting the Audit & Governance Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the relevant committee.
- iv. **Conducting investigations or other action.** The monitoring officer will conduct investigations or take other action into matters referred by the Standards Committee in accordance with the Standards Committee (England) Regulations 2008 subject to those regulations remaining in force.
- v. **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- vi. **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- vii. **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

- viii. **Restrictions on posts.** The monitoring officer cannot be the chief finance officer.

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

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the Chief Finance Officer will report to the full Council or to the executive in relation to an executive function – and the Council's external auditor if s/he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

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

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

12.06 **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.

12.07 Employment

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

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Article 13 – Decision Making

13.01 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.

13.02 Principles of decision making

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

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

13.03 Types of decision

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

13.04 Decision making by the full Council

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

13.05 Decision making by the executive

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

13.06 Decision making by overview and scrutiny committees

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

13.07 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 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.

Article 14 – Finance, Contracts and Legal Matters

14.01 Financial management

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

14.02 Contracts

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

14.03 Legal proceedings

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

14.04 Authentication of documents

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

Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

14.05 Common Seal of the Council

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

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the constitution

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

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:

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

15.02 Changes to the Constitution

Approval. Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Solicitor to the Council and the Audit and Governance Committee (as necessary).

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

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

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

16.02 Interpretation

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

16.03 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Solicitor to the Council will ensure that copies are published on the Council's web site and made available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 11 (Decision making) and the Access to Information Procedure Rules;
4. Part 3 (Responsibility for Functions).

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Part 3

Responsibility for Functions

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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.

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.

2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Membership	Functions	Delegation of functions
Planning	Ten 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 Cabinet)	Corporate Director – Community and Environment In accordance with any arrangements approved from time to time by the Planning Committee
Licensing Committee	Fifteen Members	Those functions conferred on the Council in relation to licensing (including liquor	

licensing), registration, health & safety as contained in Schedule 1, Part B (1-46, 56-70), Part C (whole), Part I (42) of the Local Government (Functions & Responsibilities) (England) Regulations 2000 (as amended)

Appointments and Staffing Committee

Five Members

To appoint the Head of Paid Service and Posts of Chief Officer (including any such Officers on Chief Officer conditions).

To determine the terms and conditions on which all staff hold office including procedures dealing with grievance and dismissal.

In respect of Chief Officers and Officers appointed on Chief Officer conditions, to be the appeal Committee for appeals against decisions made on matters of grievance and discipline by an Investigating Committee or the Chief Officer Conduct Committee.

When the committee is sitting as an appellate committee and a permanent member is precluded from attending a meeting of the committee, for example by virtue of a conflict of interest, such member may nominate a substitute. This would not apply where the

committee is sitting for any other reason than that of hearing an appeal and deals with the potential for a conflict of interest arising from some prior connection or involvement in the case under review.”

**Chief Officer
Conduct
Committee**

**Five
Members to
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 Committee terms for Chief Executives or Chief Officers.

The Committee will not act as an appellate Committee as such provisions are preserved to the Appointment & Staffing Committee.

**Audit &
Governance
Committee**

**Five
Members**

Those functions conferred on the Council in relation to Audit and Governance matters including Audit Activity, Regulatory Framework and Accounts

RESPONSIBILITY FOR STANDARDS AND CONDUCT

Committee	Membership	Functions	Delegation of functions
Standards Committee	Five members of the authority other than the Leader and four voting co-optees	<p>The promotion and maintenance of high standards of conduct within the Council</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 changes in the law.</p> <p>These functions of the Committee shall (subject to any transitional provisions) cease to apply upon the commencement of the standards provisions in the Localism Act 2011</p>	
			<p>Assistance to members and co-opted members of the authority.</p>

<p>To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</p>
<p>Other functions</p> <p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000</p>
<p>The Council's complaints procedure</p>

3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

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

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

Who is responsible	Responsibilities (provided the decision is within any guidance or direction from the Leader and/or the Cabinet)	Onward limits on delegations (provided the decision is within any guidance or direction from the Leader and/or the Cabinet and/or the Portfolio Holder)
Leader		Chief Officers with responsibilities for these functions
Portfolio Holder for Corporate Services & Assets		Chief Officers with responsibilities for these functions
Portfolio Holder for Community Safety		Chief Officers with responsibilities for these functions
Portfolio Holder for Quality of Life		Chief Officers with responsibilities for these functions
Portfolio Holder for Environment and Waste Management		Chief Officers with responsibilities for these functions
Portfolio Holder for Economic Development & Enterprise		Chief Officers with responsibilities for these functions
Cabinet (Grants) Sub Committee	<ul style="list-style-type: none"> To determine applications under the grants to voluntary organisations scheme (small grants) To determine applications under the Arts Grants Fund 	Chief Officers with responsibilities for these functions

Part 4

Rules of Procedure

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Rules of Procedure

Council Procedure Rules

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1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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

The annual meeting will:

- (i) elect a person to preside if the Mayor of Council is not present;
- (iii) elect the Mayor of Council;
- (iii) elect the Deputy Mayor of Council;
- (iv) elect the Leader;

2. ORDINARY MEETINGS

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

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

- (i) receive any announcements from the Mayor, Leader, Members of the Cabinet or the head of paid service;
- (ii) 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;
- (iii) receive a report on the appointment of the Cabinet and allocation of responsibilities;
- (iv) receive a report on the review of the Constitution;
- (v) receive a report on the review of the Scheme of Delegation
- (vi) decide which committees to establish for the municipal year;
- (vii) decide the size and terms of reference for those committees;
- (viii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (ix) receive nominations of councillors to serve on each committee; and

- (x) receive the calendar of meetings for the forthcoming municipal year

Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) receive petitions presented by members of the Council and to determine the action to be taken in response to each petition;
- (iii) 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;
- (iv) approve the minutes of the last meeting;
- (v) receive any declarations of interest from members;
- (vi) receive any announcements from the chairman, leader, members of the cabinet or the head of paid service;
- (vii) deal with any business from the last Council meeting;
- (viii) receive reports from the executive and receive questions and answers on any of those reports;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (x) consider motions; and
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

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

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the monitoring officer; and

- (iv) any five members of the Council if they have signed a requisition presented to the Mayor 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. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1 Allocation

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

4.2 Number

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

4.3 Powers and duties

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

4.4 Substitution

Substitution Members may attend meetings in that capacity only:

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

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

5. TIME AND PLACE OF MEETINGS

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

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 by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the chairman. Where these rules apply to committee and sub-committee meetings, references to the chairman also include the chairman of committees and sub-committees.

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.

9. DURATION OF MEETING

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 13 is passed.

9.2 Motions and recommendations not dealt with

Subject to 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.

9.3 Recorded vote

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

9.4 Motions which may be moved

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

9.5 Close of the meeting

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

10. QUESTIONS BY THE PUBLIC

10.1 General

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

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

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. 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.

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.

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.

10.6 Record of questions

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

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

10.7 Asking the question at the meeting

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

10.8 Response by Questioner

Following the answer by the Executive member, the questioner will be given the opportunity to respond to the answer given. The Mayor may require the

questioner to cease such response if it appears to the Mayor that the response is defamatory, frivolous or offensive.

10.9 Written answers

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

These answers will:

- 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.

10.10 Reference of question to the executive

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

10.11 Time limit on questions from members of the public

The time which the meeting spends upon dealing with questions from members of the public shall be limited to twenty minutes save that the time permitted for dealing with questions may be extended with the approval of the meeting signified without discussion.

11. QUESTIONS BY MEMBERS

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.

11.2 Questions on notice at Ordinary Meetings of the Council

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

- a member of the executive;

- the chairman or vice-chair of any committee or sub-committee
- a question on any matter in relation to which the Council has powers or duties or which affects Tamworth.

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

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

11.3 Questions on notice at committees and sub-committees

Subject to Rule 11.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect Tamworth and which falls within the terms of reference of that committee or sub-committee.

11.4 Notice of questions

A member may only ask a question under Rule 11.2 or 11.3 if either:

- they have given at least two clear working days notice in writing of the question to the Chief Executive; or
- the question relates to urgent matters, they have the consent of the member of the Cabinet 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.

11.5 Response

An answer may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner;
- 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.

11.6 Supplementary question

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

12. MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least two 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.

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.

12.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect Tamworth.

13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;

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

14. RULES OF DEBATE

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.

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.

14.3 Seconder's speech

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

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 10 minutes without the consent of the Mayor.

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.

14.6 Amendments to motions

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

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

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

(b) 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.

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

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

14.7 Alteration of motion

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

14.8 Withdrawal of motion

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

14.9 Right of reply

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

14.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;

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

14.11 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 Point of order

A member may raise a point of order at any time. The chairman will hear them

immediately. A point of order may only relate to an alleged breach of these 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 chairman on the matter will be final.

14.13 Personal explanation

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

14.14 Single Issue Debate Meetings

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

15. STATE OF TAMWORTH DEBATE

15.1 Calling of debate

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

15.2 Form of debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding conferences, debating forums, workshops and other events prior to or during the state of Tamworth debate.

15.3 Chairing of debate

The debate will be chaired by the Mayor.

15.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

- (iii) Used to inform the Overview and Scrutiny committees of suggested areas for their work programme.

16. PREVIOUS DECISIONS AND MOTIONS

16.1 Motion to rescind a previous decision

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

16.2 Motion similar to one previously rejected

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

17. VOTING

17.1 Majority

Unless this Constitution 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.

17.2 Mayor's casting vote

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

17.3 Show of hands

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

17.4 Recorded vote

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

17.5 Right to require individual vote to be recorded

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

17.6 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.

18. MINUTES

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.

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

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

18.3 Form of minutes

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

19. RECORD OF ATTENDANCE

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

20. EXCLUSION OF PUBLIC

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

21. MEMBERS' CONDUCT

21.1 Standing to speak

When a member speaks at full Council they must stand 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.

21.2 Mayor standing

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

21.3 Member not to be heard further

If a member persistently disregards the ruling of the Mayor by behaving 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.

21.4 Member to leave the meeting

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

21.5 General disturbance

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

21.6 Disclosable pecuniary interests

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

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

This standing order shall apply only following the commencement of section 31 of the Localism Act 2011.

22. DISTURBANCE BY PUBLIC

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.

22.2 Clearance of part of meeting room

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

23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

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

23.2 Amendment

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

24. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the executive. Only Rules 4– 9, 11–14, 16–18, 22–24 (but not Rule 21.1) apply to meetings of committees and sub-committees.

DRAFT

Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, the Standards Committee, Regulatory Committee and public meetings of the executive (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

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

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

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

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to

councillors in connection with an item to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

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

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:

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

8.2 Public inspection of background papers

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

9. SUMMARY OF PUBLIC'S RIGHTS

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

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

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

PART 1

DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

1	Information relating to any individual.
2	Information which is likely to reveal the identity of an individual.
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).

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

**PART 2
QUALIFICATIONS: ENGLAND**

8	Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under (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.
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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.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 24 apply to the executive and its committees. If the executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 11.03 of this Constitution.

If the executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 11.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

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

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least three clear days have elapsed since the publication of the forward plan; and
- (c) 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 4 (notice of 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 Contents of forward plan

The forward plan will contain matters which the Leader has reason to believe will be the 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) the matter in respect of which a decision is to be made;
- (b) 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;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Chief Executive has informed the Leader, appropriate Portfolio Holder and Chair of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

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 Leader, appropriate Portfolio Holder and chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

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:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or

- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the chairman/vice chairman of the Council under Rule 16;

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

17.2 Executive's report to Council

The executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

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

19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

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

21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

- 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.
- 2) All members of the executive are entitled to attend a private meeting of an executive committee although they may not speak unless the members of the committee/sub-committee agree.
- 3) Notice of private meetings of the executive and its committees will be served on the chairs 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.
- 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.
- 5) The head of the paid service, the monitoring officer and the chief financial officer, and their nominees are entitled to attend any meeting of the executive and its committees.

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

22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

22.1 Reports intended to be taken into account

Where an individual member of the executive receives a report which s/he intends to take into account in making any key decision, then s/he will not make the decision until at least three clear days after receipt of that report.

22.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant overview

and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

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22.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, the Chief Executive, monitoring officer or a person acting on their behalf will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political or Mayor's assistant.

23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

23.1 Rights to copies

Subject to Rule 23.2 below, an overview and scrutiny committee (including its sub-committees) 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

- (a) any business transacted at a public or private meeting of the executive committees; or
- (b) any decision taken by an individual member of the executive.

23.2 Limit on rights

An overview and scrutiny committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

24.1 Material relating to previous business

All members 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 previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

24.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

24.3 Nature of rights

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

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

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

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:

- (a) 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.
- (b) 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.
- (c) 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.

- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) 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

- (a) 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.

- (b) 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

- (a) 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:
- i) if it is not practical to convene a quorate meeting of the full Council; and
 - ii) 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, and in the absence of both the Deputy Mayor, will be sufficient.

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

5. Virement

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

within one budget head shall not exceed £50,000. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

6. In-year changes to policy framework

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

- (a) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (b) 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

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget, then it shall seek advice from the monitoring officer and chief financial officer.
- (b) In respect of functions which are the responsibility of the executive, the monitoring officer's report and chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and the chief financial officer. The Council may either:

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

Or

- ii) 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

- iii) 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.

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Executive Procedure Rules

1.1 Persons making executive decisions

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

- i) the executive as a whole;
- ii) a committee of the executive;
- iii) an individual member of the executive;
- iv) an officer;
- v) an area committee;
- vi) joint arrangements; or
- vii) another local authority.

1.2 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 year:

- i) the names, addresses and wards of the people appointed to the executive by the Leader;
- ii) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and

- vi) 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.

1.3 Sub-delegation of executive functions

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions, 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.
- (c) 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.

1.5 Conflicts of Interest

- (a) 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.
- (b) 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.
- (c) 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.

1.6 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.

1.7 Quorum

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

1.8 Decisions to be taken by the executive

- (a) 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.
- (b) 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.

2.1 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.

2.2 Business

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

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) 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;
- iv) consideration of reports from overview and scrutiny committees; and
- v) 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.

2.3 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.

2.4 Placing items on the executive agenda

The Leader may put on the agenda of any executive meeting any matter which s/he wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.

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

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

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

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

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

Overview and Scrutiny Procedure Rules

1. The Council will have the overview and scrutiny committees and sub-committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
2. The terms of reference of the overview and scrutiny committees and sub-committees will be as set out in Article 6.
3. All councillors except members of the executive may be members of an overview and scrutiny committee or sub-committee. However, no member may be involved in scrutinising a decision which s/he has been directly involved.
4. Each overview and scrutiny committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

5. **Meetings of the overview and scrutiny committees**

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

6. **Quorum**

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

7. **Chairs of Scrutiny Committees**

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

8. **Work programme**

The overview and scrutiny committees/sub-committees will subject to the requirements of any Scrutiny Co-ordinating Committee be responsible for setting their own work programme and in doing so they shall take into account

wishes of members on that committee who are not members of the largest political group on the Council.

9. Questions by Members of the Public

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

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

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

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

10. Agenda items

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

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

11. Policy review and development

- (a) The role of the overview and scrutiny committees and sub-committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) 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.
- (c) Overview and scrutiny committees and sub-committees may hold enquiries and investigate the available options for future direction in policy

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

12. Reports from overview and scrutiny committee

- (a) Once it has formed recommendations on proposals for development, overview and scrutiny committees and sub-committees will prepare a formal report and submit it to the Chief Executive for consideration by the executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an overview and scrutiny committee or sub-committee cannot agree on one single final report to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.
- (c) The Council or executive shall consider the report of the overview and scrutiny committee or sub-committee within one month of it being submitted to the Chief Executive.

13. Meetings of Executive

- (a) The agenda for executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees and sub-committees referred to the executive shall be included at this point in the agenda (unless they have been considered in the context of the executive's deliberations on a substantive item on the agenda) within two months of the overview and scrutiny committee or sub-committee completing its report/recommendations.
- (b) Only one report every six months period may be submitted by each overview and scrutiny committee or sub-committee to the executive.
- (c) Overview and scrutiny committees and sub-committees will in any event have access to the executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee or sub-committee following a consideration of possible policy/service developments, the committee or sub-committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

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

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

15. Members and officers giving account

- (a) Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:
 - i) any particular decision or series of decisions;
 - ii) the extent to which the actions taken implement Council policy; and/or
 - iii) their performance.

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

- (b) 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 inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least three working days' notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the committee or sub-committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee or sub-committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of 15 working days from the date of the original request.

16. Attendance by others

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

17. Call-in

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

- (a) When a decision is made by the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within five working days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) 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.
- (c) During that period, the Chief Executive shall call-in a decision for scrutiny by the committee or sub-committee if so requested in writing or by email by the chair or any two members of the committee or sub-committee, and shall then notify the decision-taker of the call-in. Such request shall provide specific details for the reason for call-in together with the areas requested to be examined. The Chief Executive in consultation with the Solicitor to the Council & Monitoring Officer shall have the right to require such requests if they are frivolous, unsubstantial or repetitious. S/he shall call a meeting of the committee or sub-committee on such date as s/he may determine, where possible after consultation with the chair of the committee or sub-committee, and in any case within seven working days of the decision to call-in. The relevant Portfolio holder from the Executive shall attend the Overview & Scrutiny Committee to assist that committee in considering the call-in item.
- (d) If, having considered the decision, the overview and scrutiny committee or sub-committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further seven working days, amending the decision or not, before adopting a final

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

- (e) If following an objection to the decision, the overview and scrutiny committee or sub-committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further seven working day period, whichever is the earlier.
- (f) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

EXCEPTIONS

- (j) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
 - i) that an overview and scrutiny committee or sub-committee may only call-in three decisions per year;
 - ii) only decisions involving expenditure or reductions in service over a value of £50,000 may be called in;
 - iii) the chair or two members of an overview and scrutiny committee or sub-committee are needed for a decision to be called in;
 - iv) once a member has signed a request for call-in under paragraph 16 (call-in) above and such call-in was not refused, s/he may not do so again until a period of six months has expired.

CALL-IN AND URGENCY

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

18. The party whip

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

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

- (a) Overview and scrutiny committees and sub-committees shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) consideration of any matter referred to the committee or sub-committee for a decision in relation to call in of a decision;
 - iv) responses of the executive to reports of the overview and scrutiny committee or sub-committee; and
 - v) the business otherwise set out on the agenda for the meeting.

- (b) 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:
- i) 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;
 - ii) that those assisting the committee or sub-committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee or sub-committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

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

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

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:
 - a) legislation;
 - b) approved service plans or corporate plans;
 - c) approved service net revenue budgets or capital programmes;
 - d) 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 Cabinet 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 IS

Manager on the procurement of information technology or the Accountancy Manager on the arrangement of leases.

- 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 Chief Finance Officer
 - c) the Internal Audit Manager
 - d) the Monitoring Officer
 - e) external auditors and other statutory inspectors
 - f) 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 confidential reporting policy.

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

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

Contracts Procedure Rules

1. All employees must comply with these standing orders, the relevant regulations relating to Public Contracts and with financial regulations when procuring goods and services.
2. All Directors have primary responsibility for ensuring compliance within their service areas.
3. Best value and value for money must be sought in all procurement activities. Competition must be sought in accordance with issued guidance.
4. Where the value of the goods and services is likely to be £50,000 or more the following requirements apply:
 - a) tenders must be sought from suitably qualified suppliers
 - b) the supply must be governed by a written contract.

The only exception to these requirements shall be where the Cabinet has given authority in order to achieve best value.

5. 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.
6. All potential suppliers of goods and services must be treated equitably.
7. In all procurement activities, arrangements must be clear regarding:
 - a) the goods or services to be supplied and the supply mechanisms;
 - b) the amount to be paid and the payment mechanisms;
 - c) the rights and responsibilities of all parties.
8. 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.
9. The Chief Finance Officer shall, with the agreement of the Chief Executive and Monitoring Officer, issue detailed guidance on procedures to be followed in compliance with these standing orders. Such guidance shall include procedures for securing competition, for regulating the manner in which tenders are invited and for managing risk.
10. 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.

Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the Chief Executive or an officer nominated by him/her.

(b) Seeking support for appointment.

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

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:

(a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (a) (i) to be sent to any person on request.

3. **Appointment of head of paid service**

- (a) The full council will approve the appointment of the head of paid service following the recommendation of such an appointment by an Appointments and Staffing committee of the Council consisting of five members appointed at the annual meeting. That committee must include at least one member of the executive.
- (b) The full Council may only approve the appointment of the head of paid service where no well-founded objection has been made by any member of the executive.

4. **Appointment of chief officers**

- (a) The appointments committee appointed by the Council will appoint chief officers. That committee must include at least one member of the executive.
- (b) An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the executive has been received.

5. **Other appointments**

- (a) **Officers below chief officer.** Appointment of officers below chief officer (other than assistants to political groups) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. **Disciplinary action**

- (a) **Suspension.** The head of paid service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action against any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to

time may allow a right of appeal to members in respect of disciplinary action.

7. **Dismissal**

Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

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Part 5

Codes and Protocols

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Members' Code of Conduct

PART 1

GENERAL PROVISIONS

1. Introduction and Interpretation

- 1.1 This Code applies to **you** as a Member of Tamworth Borough Council.
- 1.2 You should read this Code together with the general principles prescribed by the Secretary of State. A copy of the general principles is attached at Appendix 1 for your information.
- 1.3 It is your responsibility to comply with the provisions of this Code.

1.4 In this Code:

“Council” means Tamworth Borough Council

“Meeting” means any *formal or informal* meeting of:

- (a) the Council
- (b) the Executive (Cabinet)
- (c) any of the Council's or the Cabinet's committees, sub-committees, joint committees, joint sub-committees or area committees

“Member” includes a co-opted member and an appointed member;

“Relevant Authority” means a county council, a county borough council, a district council, a parish council, a police authority and such other authority or organisation as is identified in Section 49(6) of the Local Government Act 2000.

2. Scope

- 2.1 Subject to sub-paragraphs 2 to 5, you must comply with this code whenever you:
- (a) conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the Council

and reference to your official capacity are constructed accordingly.

- 2.2 Subject to sub paragraphs 2.3 and 2.4, this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 3.2(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- 2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 2.3) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- 2.5 Where you act as a representative of the Council:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General Obligations

- 3.1 You must treat others with respect
- 3.2 You must not:
 - (a) do anything which may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or

proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her Council's Code of Conduct; or

- (d) do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council

4. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the consent of a person authorised to give it;

- (ii) you are required by law to do so;

- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- (iv) the disclosure is:

- (aa) reasonable and in the public interest; and

- (bb) made in good faith and in compliance with the reasonable requirements of the Council

- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

6. You:

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other persons, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of the Council:

- (i) act in accordance with the Council's reasonable requirements: and

- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7.1 When reaching decisions on any matter you must have regard to any relevant advice provided too you by:

- (a) the Council's Chief Finance Officer; or
- (b) the Council's Monitoring Officer

where that officer is acting pursuant to his or her statutory duties.

7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

PART 2

INTERESTS

8. Personal Interests

8.1 You have a personal interest in any business of the Council where either:

(a) it relates to or is likely to affect:

- i. any body of which you are a member or in a position of control or management and to which you are appointed or nominated by the Council;
- ii. any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- iii. any employment or business carried on by you;
- iv. any person or body who employs or has appointed you;

- v. any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- vi. any person or body who has a place of business or land in the Council's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- vii. any contract for goods, services or works made between the Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph vi;
- viii. the interest of any person from whom you have received a gift or hospitality with an estimated value of at least £25.00;
- ix. any land in the Council's area in which you have a beneficial interest;
- x. any land where the landlord is the Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the descriptions specified in paragraph vi. is, the tenant
- xi. any land in the Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(a) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:

- i. (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
- ii. (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
- iii. (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

8.2 In sub-paragraph 8.1(b), a relevant person is:

- (a) A member of your family or any person with whom you have a close association; or

- (b) Any person or body who employs or has appointed such persons, any firm in which they have a partner, or any company of which they are directors;
- (c) Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000, or
- (d) Any body of a type described in sub-paragraph 8.1(a) i. or ii.

9. Disclosure of Personal Interest

- 9.1 Subject to sub-paragraph 9.2 to 9.7, where you have a personal interest in any business of the Council and you attend any meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a person described in paragraph 8.1(a) i. or 8.1(a) ii. (aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9.3 Where you have a personal interest in any business of the Council of the type mentioned in paragraph 8.1(a) viii., you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9.4 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9.5 Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in the council's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 9.6 Subject to paragraph 12.1(b), where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 9.7 In this paragraph 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

PREJUDICIAL INTERESTS GENERALLY

- 10.1 Subject to sub-paragraph 10.2, where you have a personal interest in any business of the Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant fact would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10.2 You do not have a prejudicial interest in any business of the Council where that business:
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of the Council in respect of:
 - i. housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to Members;
 - v. any ceremonial honour given to Members, and
 - vi. setting council tax or a precept under the Local Government Finance Act 1992.

OVERVIEW AND SCRUTINY COMMITTEES

- 11.1 You also have a prejudicial interest in any business before an overview and scrutiny committee of the Council (or a sub-committee, panel or working group of such a committee), where:
- (a) that business relates to a decision made (whether implemented or not) or action taken by Cabinet or a Cabinet committee, sub-committee, joint committee or joint sub-committee; and

- (b) at the time the decision was made or action was taken, you were a member of Cabinet, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.1(a) and you were present when that decision was made or action was taken.

EFFECT OF PREJUDICIAL INTERESTS ON PARTICIPATION

12.1 Subject to sub-paragraph 12.2, where you have a prejudicial interest in any business of the Council:

- (a) you must withdraw from the room or chamber where a meeting is being held:
 - i. in a case where sub-paragraph 12.2 applies, immediately after making representations, answering questions or giving evidence;
 - ii. in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the Council's Standards Committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

12.2 Where you have a prejudicial interest in any business of the council, you may attend a meeting (including a meeting of the overview and scrutiny committee of the Council or of a sub-committee or panel of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

PART 3

REGISTRATION OF MEMBERS' INTEREST

Registration of Members' Interests

13.1 Subject to paragraph 14, you must within 28 days of:

- (a) This Code being adopted by or applied to your authority; or
- (b) Your election or appointment to office (where that is later),

register in the Council's Register of Members' Interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interest where they fall within a category mentioned in paragraph 8.1(a), by providing written notification to the council's Monitoring Officer.

- 13.2 Subject to paragraph 14, you must within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph 13.1, register details of that new personal interest or change by providing written notification to the Council's Monitoring Officer.

SENSITIVE INFORMATION

- 14.1 Where you consider that the information relating to any of your personal interest is sensitive information, and the Council's Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- 14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.
- 14.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

THE GENERAL PRINCIPLES

Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity

Member should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

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OFFICERS' CODE OF CONDUCT

To be inserted when available

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PROTOCOL FOR MEMBER/OFFICER RELATIONS

Index

1. Underlying principles
2. The role of members
3. The role of officers
4. The relationships between members and officers generally
5. The relationship between the Overview and Scrutiny Committees and officers when Executive decisions are being scrutinised.
6. Officer relationships with party groups
7. Members in their ward role
8. Member access to documents and information
9. Non Council members on Council bodies
10. Press releases and correspondence (including e-mail)

1. Underlying Principles

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

2. The role of Members

2.1 *To promote the social, economic and environmental well-being of the community.*

2.2 Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.

2.3 Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.

2.4 Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.

2.5 Balance different interests identified within the ward and represent the ward as a whole.

2.6 Be involved in decision making.

2.7 Be available to represent the Council on other bodies.

2.8 To promote the highest standards of conduct and ethics.

2.9 To act collectively as the employer of the staff.

2.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution.

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

3. The role of officers

3.1 To initiate and to implement the policies set and the decisions made by members.

- 3.2 To provide professional and technical advice to members.
- 3.3 To carry out those functions delegated to officers.
- 3.4 To provide reasonable help, support and advice to all members.
- 3.5 To represent the Council on outside bodies.
- 3.6 To act in a specific capacity listed below where appointed so to do by the Council.

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

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

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

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

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

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

4. The Relationship between officers and members

- 4.1 ***The relationship between officers and members should be characterised by mutual respect which is essential to good local government.***

- 4.2 Close personal familiarity between individual members and officers can damage professional relationships and prove embarrassing to other members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between members and officers.
- 4.3 Any dealing between members and officers should be conducted with courtesy and respect and neither party should seek to take unfair advantage of their position. In particular, members should recognise and pay due regard to their role as an employer in their dealings with officers.
- 4.4 The Council has statutory duties with regard to equalities issues to positively promote equality. Members and officers shall not by their behaviour or speech be discriminatory with regard to a person's ethnicity, gender, disability or sexual orientation. Such principles shall apply to the implementation of all personnel policies, recruitment and promotion as they apply to day to day operations.
- 4.5 Members should not raise matters relating to the conduct or capability of a Council employee or of the employees collectively at meetings held in public or the Press. Employees have no means of responding to criticism like this in public. (If members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council employee they should raise the matter with the Chief Officer of the department concerned if they fail to resolve it through direct discussion with the employee.)
- 4.6 Members should not require any officers to change their professional advice nor to take any action which the officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct.
- 4.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.
- 4.8 In seeking advice and support members should have due regard to the seniority of the officer with whom they are dealing and the fact that, while those officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual member. For this reason members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant chief officer rather than a more junior member of staff.

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

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

6. Officer relationships with party groups

- 6.1 *It must be recognised by all officers and members that in discharging their duties officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual members.***
- 6.2 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner.
- 6.3 The support provided by officers can take many forms, ranging from a briefing with the Leader of the Executive, the leaders of other political groups, or chairs of committees, to a presentation to a full party group meeting.

6.4 Any request for advice given to a political group or member will be treated with strict confidence by the officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.

6.5 When attendance is requested for political group meetings

6.5.1 *the request to attend a group meeting must be made through the Chief Executive;*

6.5.2 unless otherwise agreed by the Chief Executive, officers will not attend party group meetings which include persons who are not members of the Council or be present at purely party political discussions;

6.5.3 such a request can only be made in relation to Council business;

6.5.4 officers must respect the confidentiality of any party group discussions at which they are present.

7. Members in their ward role

7.1 When acting in their ward role members:

- 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;
- recognise the officer's right to suggest that senior officers, the Executive (Council) or a committee should authorise additional work requested by individual members.

8. Member access to documents and information

8.1 *Save as provided below every member of a committee, sub-committee of the Executive (Council) has a right to inspect documents about the business of that committee, sub-committee or the Executive (Council).*

8.2 A member who is not a member of a specific committee, sub-committee (or the Executive) may have access to any documents of that part of the Council if they satisfy the Council's Monitoring Officer that they reasonably need to see the documents to perform their duties.

8.3 A member is not entitled to inspect any document or have access to any information about a matter in which they have a prejudicial interest or where to do so would be in breach of any statutory provision.

9. Press releases and correspondence (including e-mails)

9.1 *Press releases must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party.*

9.2 Council press releases are drafted by officers and may contain quotations from the Leader of the Executive, a relevant portfolio holder or chair. Press releases about ceremonial events may contain a quotation from the Chair or Vice Chair of the Council. Otherwise quotations will be made by officers.

9.3 All correspondence written on behalf of the Council must be written on the relevant headed paper.

9.4 When members are writing they must make it clear whether they are writing on behalf of the Council or as the ward member.

9.5 All correspondence should be open to the inspection of the public and in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended or if it is in conflict with the data protection legislation.

10. Enforcement

10.1 Any complaint that an officer has breached the terms of this protocol shall be referred to the Head of Paid Service for appropriate action under the Council's employment procedures.

10.2 Any complaint that a member has breached the terms of this protocol shall be referred to the Monitoring Officer for referral to the Standards Committee if the conduct would otherwise amount to a breach of the Council's Code of Conduct.

10.3 Where a complaint against a member involves conduct that would not otherwise breach the Council's Code of Conduct it will be referred to the Head of Paid Service for discussion with the Leader of the relevant political group. Where it is not possible to resolve a complaint by this means the Head of Paid Service may refer it to the Standards Committee for consideration.

PRE-ELECTION PROTOCOL

- a) 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.

- b) The Local Government Act 1986 – S4:-

- Allows for a code of practice on publicity, currently being updated.
- 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.”

- c) 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.

- d) In order to comply with this, the Standards Committee has indicated that:-

- 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.
- No press releases should be issued on local or other issues promoted by or involving individual members.

- Enquiries from the media will be directed towards appropriate officers only.
- No links be added from the Council's web site to any site which may be construed as political

EXCEPT that

- Where absolutely necessary for the purpose of responding to outside events or to a crisis, the appropriate Councillor, committee chairman or Leader of the Council can be quoted, speaking on behalf of the Council.
- e) At all times the following points must be considered:-
- Is there a valid reason for the Councillor concerned to represent the Council on this issue/at this event?
 - Is there a good reason why the event/announcement should be happening now, rather than after the elections?
- f) 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.
- g) **Use of Council property for public meetings**
There is provision within the Representation of the People Act 1983 for candidates in an election to have free use of certain rooms for holding public meetings, in the electoral division in which they are standing. This entitlement is from the last day for the publication of the notice of elections until the day proceeding the day of elections.
- h) 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.
- i) Permitting the use of these facilities does not breach this protocol provided the local authority does not publicise the meeting.
- j) 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.
- k) If any clarification is required or difficulties encountered, advice should be sought from Democratic Services.
- l) This guidance can be varied by the Returning Officer in consultation with the Monitoring Officer, according to circumstances.

PROTOCOL ON MEMBER INVOLVEMENT IN COMMERCIAL TRANSACTIONS

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.

Principles

The protocol will be based upon the following principles.

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

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 be come 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:

- the obligation to secure the best possible value for money for the Council;
- 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;
- the Best Value obligations to secure the continuous improvement in all Council services, whether delivered directly or externally procured;
- the need to comply with relevant law, and in particular with:
 - Public Procurement regulations
 - the Human Rights Act 1998
 - the Local Government (Contracts) Act 1997
 - the Contracts (Rights of Third Parties) Act 1999
- 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;
- 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
- compliance with the requirements of the Council’s Local Code for Councillors and the national code for officers.

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

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

- For the Council:
- 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;

- inability to enforce the contract or to recover damages for breach;
- 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;
- 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;
- Adverse Court judgements, findings of maladministration, or Public Interest reports from the Council's Auditor;
- 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
- the loss of the Council's reputation as an organisation dedicated to the interests of the community which it serves.

➤ For individual Councillors:

- suspension or disqualification from office for breach of the Council's Code of Conduct;
- personal liability, in the event of a Councillor's negligence or reckless or deliberate misconduct causing loss to the Council. (Note that the pending abolition of the law of surcharge does not remove the ability, indeed the 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
- prosecution for corruption or, shortly, for Misuse of 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).

➤ For an officer:

- disciplinary proceedings by the Council, possibly leading to dismissal;
- 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);
- prosecution for corruption or, shortly, for Misuse of Public Office.

These risks will be increased by the introduction of executive government under the Local Government Act 2000, as hitherto individual Councillors have not been able to bind the Council by their actions, whereas the new law will enable members of the new Executives to take binding decisions on behalf of their local authorities. It is therefore particularly relevant to set out the following ground-rules, for the protection of the Council, of Councillors and of officers.

1. Declaration and Registration of Interests

1.1 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 his absence, the Chief Executive before taking any part in the consideration of the matter.

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

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

1.2 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. These provisions are shortly to be reinforced by a mandatory national code of

conduct for officers which will form part of all officers' terms and conditions of employment and will be enforceable by the employing authority through the disciplinary process.

2. Lobbying

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

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

- 2.1 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.
- 2.2 They will take sides on the issue by declaring their support or opposition to the proposal. In that case, they are either an advocate or an opponent of the proposal and are no longer impartial. As a result, they should declare an interest and withdraw from any such meeting at which the matter is under consideration. The only exception to this rule is that, where a local Councillor has received and supports strong representations from local residents in his/her ward, that Councillor may be allowed to report those representations to the Committee in declaring an interest at the commencement of discussion of the matter and immediately before withdrawing from the meeting.
- 2.3 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.

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

3. Gifts and Hospitality

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

The Bribery Act provides that it is a serious criminal offence for anyone who has or seeks a contract with a local authority to offer, and for any Councillor or officer to receive, any gift or consideration as an inducement to, or reward for, doing anything or declining to do anything in respect of any matter before the Council. What is more, where any Councillor or officer has received any gift or consideration, the legal presumption is that it was given and received corruptly unless the contrary is proved. So, while modest gifts and hospitality may form a normal part of private sector commercial practice, in local government it is up to the Councillor or officer to prove that the gift or consideration was entirely innocent. It is also an offence for an officer to receive anything beyond the proper recompense for doing his/her job.

The best way to demonstrate such innocence is to be totally open about the matter, and it is for this reason that every local authority maintains a register of gifts and hospitality for Councillors and officers, and the National

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

The simple ground rules are as follows:

- 3.1 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;
- 3.2 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;
- 3.3 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;
- 3.4 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;
- 3.5 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;

4. Professional Advice:

Councillors are elected to act as community representatives, to give political and strategic direction to the Council and its services, to take critical decisions in the best interests of the community which they serve and to ensure that proper standards of conduct are maintained by officers and Councillors alike in the performance of their duties. Individual Councillors may have very considerable experience and expertise in particular fields, and the knowledge and experience which they have gained from their lives outside the Council can add a valuable extra dimension to the discharge of Council functions and help to keep the Council in touch with the reality of the community which it

serves, as well as being able to articulate the political will of the Council.

The Council is a very big and complex business which operates within a legal and regulatory framework which is significantly more complex than that which applies in most of the private sector. It employs specialist officers whose job it is to ensure that the Council secures the best possible value for money in the discharge of its functions. These officers are trained professionals in their specialist fields.

It is therefore important that the Council should ensure that it obtains the advice of the relevant officers, including the advice of the three statutory officers (the Head of Paid Service in terms of the co-ordination and direction of the Council's staff and resources, the Monitoring Officer in respect of legality and ethical probity and the Chief Finance Officer with regard to financial probity and administration) before taking decisions which affect the community. This is so whether the decision is being taken at Councillor or at officer level.

One area of special sensitivity relates to commercial negotiations, where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation, and where it is accordingly essential to ensure that the end result of the negotiation secures value for money for the Council and does not leave it exposed to excessive liability or risk.

There will be occasions when Councillors can play an invaluable part in such negotiations, not least in expressing to the other party the commitment of the Council to a particular project, or the political constraints within which the transaction occurs. However, given the risks to Councillors from involvement in such negotiations, it must be the general rule that Councillors should never undertake any commercial negotiation without appropriate officers present, and should only undertake such negotiations, even with officers present, where there are clear reasons to conclude that their involvement in the negotiation, rather than in setting the political framework and approving or disapproving the final deal, will add real value to the process.

At present an individual Councillor does not have authority to bind the Council, so that any transaction must be completed by the appropriate officer of the Council, and the Council's Contract Standing Orders and Financial Regulations set out the degree of formality which is required according to the value and nature of the transaction.

The Local Government Act 2000 enables individual members of a Council's Executive to bind the authority and when the provision is used it will be especially important to ensure, before concluding any such negotiation, ensure that the appropriate officers are satisfied that the transaction is lawful and represents value for money for the authority, by means of consideration of a written report and recommendation from the relevant officers.

5. 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.

6. Confidentiality:

Commercial transactions, by their nature, involve the commercial activities of one or more party other than the Council. They will involve the disclosure to the Council of matters of commercial confidentiality, such as the business plans, performance standards or pricing structures of commercial organisations, disclosure of which to a competitor or to the market could be very detrimental. This is all the more so as Best Value encourages the development of Partnership and Open Book transactions. The maintenance of confidentiality is essential both to maintain the integrity of a competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets, and are therefore able to be open with the Council.

It is important that Councillors should have access to the information necessary to enable them to understand the business of the Council and to ensure that it is being conducted in accordance with the policies and budgets of the Council and to the highest standards of propriety. The Council will ensure that all Councillors have the information necessary to enable them to perform their duties, but the corollary to that is that Councillors should only request access to confidential information where there are clear reasons why they need access to that information for the performance of their obligations, and should ensure that they do not disclose confidential information to unauthorised persons or organisations. Officers are instructed that if they are concerned that a Councillor's request for access to confidential information may be inappropriate, they are to seek the advice of the Monitoring Officer or the Chief Executive before releasing the information.

[N.B. References to the Monitoring Officer in this document should in her absence be referred to the Deputy Monitoring Officer.]

PROTOCOL ON THE USE OF COUNCIL FACILITIES, PRINTING AND POSTAGE

INTRODUCTION

The Council only has power to provide facilities that assist Members in discharging their role as Members of the Council. Services can therefore only be used on Council business and never in connection with party political or electoral campaigning activity or for private purposes.

This Protocol covers the use of facilities provided under the Members' Services budget and has been approved by the Standards Committee.

PRINTING

Basis of Provision

Printing facilities are available to Members of the Council in their capacity as Ward Councillors for the purpose of the provision of information to constituents in their Wards about

- The work of the Council, its Committees and Sub Committees
- Services in the area provided by the Council or joint authorities [e.g. health]
- How to contact their local Councillors or MP and raise issues
- Meetings, consultation and local initiatives for the area organised by or on behalf of the Council.

The facilities are not available for the production of material which in whole or in part appears to be designed to affect public support for or to promote

- A political party
- A candidate or group of candidates in an election
- An electoral or party political campaign

Detailed Arrangements

Quantity Entitlement is for a maximum of 100 A4 copies per Member per calendar month with sufficient materials and postage to complete the request.

Materials	Standard range of white/tinted paper or card stocked by Democratic Services will be available for use. Produced in black ink with option of including one other colour.
Content	Under no circumstances can the name of a political party appear on the printed material. Slogans, title or phrases which are associated with a political party cannot be part of the text.
Layout	There is no prescribed format for the layout.
Logos	Material produced should include an indication that it has been printed by the Council under the arrangements for members printing. This can be by use of the Coat of Arms or Logo or the acknowledgement 'Printed by Tamworth Borough Council'
Names	In addition to the names of Members of the Council printed material can contain the name of the MP or MEP for the area and the names of relevant officers of the Council shall not be included, only job titles will be permitted with prior consent of the Officer.
Photos	These can be incorporated on the same basis as that which applies to the inclusion of names.

Processing of Requests

Printing requests should be submitted to Democratic Services for approval under the above arrangements. Any decision not to process the request will be advised to the Member.

The opportunity will be available to discuss any aspect further with Democratic Services. In the event of any unresolved issue the matter can be further considered by the Solicitor to the Council.

PHOTOCOPIERS

Short run copying facilities are provided in Group Offices for use on a self service basis by Members of the Council in connection with Council business only. Members will be provided with controlled access to these facilities and use will be monitored on an individual and overall basis.

With the obvious exception of the print quantity the principles under which these facilities can be used are the same as apply to requests for printing via Democratic Services already described in this guidance note.

COAT OF ARMS

The Coat of Arms and the Council's logo are only available for use in connection with Council business.

Use by Members of the Council is only acceptable on material produced under the arrangements for Members printing, or on Members personalised stationery.

Under no circumstances should the Coat of Arms or the Council logo be used as part of material produced by or on behalf of Members of the Council outside of the approved arrangements described above.

PERSONALISED LETTERHEAD AND BUSINESS CARDS

A template is available for Members to print direct from their laptops. A colour printer is available in the Members' Room.

Personalised business cards can include details of advice bureaux or reference to other representative roles undertaken where that role arises from being a Member of Tamworth Borough Council

POSTAGE

Basis of Provision

Facilities are available to Members of the Council on the basis of posting individual letters for the purpose of

- Responding to individual or small groups of constituents on specific matters raised by them
- Communication with other organisations as a part of dealing with issues raised by constituents
- Providing information on a one off basis to new electors in the Ward on the work of the Council, its Committees and Sub Committees, services in the area provided by the Council or joint authorities [e.g. health] and how to contact their local Councillors or MP.

The facilities are not available for mail shots, the distribution of leaflets or the posting of general information to constituents other than in the circumstances described above.

They are also not available for posting any material which could not be printed by the Council.

Clarification on any proposed use of postal facilities can be obtained from Democratic Services.

Business Reply/Freepost Service

The Freepost Licence can be used by Members

- To facilitate responses to individual letters of the type that could be posted by the Council
- On cards which have been produced under the arrangements for Members printing set out in this guidance note

RECORD OF USAGE

A record of each Members usage of these provisions will be maintained by Democratic Services

DRAFT

GIFTS AND HOSPITALITY

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the Bribery Act. These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

This Protocol of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority

This Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

1 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do would be in breach of one or more of these principles:

- (a) **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.

(b) 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.

(c) 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:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination.
- (iii) funding decisions, when the authority is determining a grant application by any person or organisation.

(d) 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,

(e) 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

(a) General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits

- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority
- (iv) 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
- (v) 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
- (vi) 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.
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- (viii) 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.
- (ix) other unsolicited gifts, where it is impractical to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure:

The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Civic Officer together with

a written statement identifying the information set out in Paragraphs 2(b) below. The Civic Officer will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity Fund, on whose behalf it will be raffled or other wise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

(b) 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:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and the estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) 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
- (iv) 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
- (v) 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.

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.

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.

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.

5 Definitions

(a) "Gift or hospitality" includes any:

- (i) the free gift of any goods or services
 - (ii) 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
 - (iii) the opportunity to obtain any goods or services which are not available to the general public
 - (iv) the offer of good, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (b) References to the “value” or “cost” of any gift or hospitality are references to the higher of:
- (i) your estimate of the cost to the person or organisation of providing the gift or consideration
 - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

To: Solicitor to the Council/Monitoring Officer

Declaration of Receipt of Gifts or Hospitality

Name	
Address:	
What was the gift or hospitality?	
What is your best estimate of its Market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the protocol of Conduct? If so, which? Gift or Hospitality	
Did you get the consent of any officer Before accepting it? If so, who?	
Were there any special circumstances Justifying acceptance of this gift or Hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality	
Signed	Date

LOCAL PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

1. Introduction

- 1.1 In recent years the local administration of the planning system has come under close scrutiny, following a few well-publicised allegations of improper conduct or practice, and, in 1997, the Third Report of the Committee on Standards in Public Life (the Nolan Committee). The original version of this protocol was based on guidance issued following a recommendation of the Nolan Committee. The guidance recommended to all local authorities practices and procedures, designed to avoid allegations of malpractice in the operation of the planning system in the future. It recommended that such practices and procedures be clearly set out in a local authority's own local code of planning conduct. A local code was produced by Tamworth Borough Council in November 2000 and was widely distributed to Councillors, officers and Parish Councils. The local code was also made available to members of the public.
- 1.2 This protocol takes into account the new arrangements provided by the Local Government Act 2000 and updates the original planning code. It is based on advice provided by the Local Government Association. (Probity in Planning Update – the role of Councillors and officers, Local Government Association, 2002) and is an adjunct to the Code of Conduct.

2. The New Ethical Framework in Local Government

- 2.1 Part III of the Local Government Act 2000 introduced a new ethical framework for local government.
- 2.2 The Code of Conduct for Members, adopted by the Council on 28th February 2002, sets out expectations as to the conduct of elected and co-opted members of local authorities in the conduct of their official duties (and to some extent in their private life). Members are expected to comply with the spirit and not just the letter of their code.
- 2.3 The separation of private from public interests remains at the heart of the provisions, however, and to that extent, the new protocol does not represent any radical departure from the provisions and expectations of the former planning code. The ethical framework outlined above in most respects follows the recommendations of the Nolan Committee.
- 2.4 This planning protocol seeks to relate these requirements specifically to planning but goes beyond the probity concerns of the model and local codes to give more detailed advice on the operation of the system.

The planning protocol therefore serves a dual role. Whilst the Code of Conduct is concerned primarily with individual probity and other aspects of conduct across the whole range of a councillor's duties, this protocol is concerned with the integrity of the planning system, including the conduct of councillors in its processes and procedures. The two documents overlap, but have different targets. Members are required by the Council to comply with these protocols and the Council has authorised the Standards Committee to take appropriate action and apply appropriate sanctions to any member who acts in breach of the protocols.

3. The Need for Guidance on the Conduct of Planning Matters

- 3.1 Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 3.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or ill-founded.
- 3.3 Bearing in mind all these factors, it is not therefore surprising that from time to time things can go wrong unless councils are on their guard. In the past the volume and seriousness of public complaints have led to in-depth inquiries into a small number of councils. These inquiries revealed not only that certain matters were being conducted poorly, but that there was a very wide divergence of practice between councils. Doing things differently is not bad in itself, so long as what is done can be justified within a set of appropriate guidelines. This is where a local protocol can be very helpful.
- 3.4 This protocol applies to both councillors and officers who become involved in operating the planning system - it is not therefore restricted to just professional town planners and planning committee members.

4. The General Role and Conduct of Councillors and Officers

- 4.1 Councillors and officers have different but complimentary roles. Both serve the public but councillors are responsible to the council as a whole. 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 or its executive or a committee. Any other system which develops is open to question. A successful relationship between councillors and officers can only be based upon mutual trust and understanding of each others positions. This relationship, and the trust which underpins it must never be abused or compromised.

4.2 Both councillors and officers are guided by codes of conduct. The statutory local code of conduct, supplemented by guidance from the Standards Board for England, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. In addition, staff who are Chartered Town Planners are guided by the RTPI's Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. In addition, to these professional body codes, the Council's standing orders set down rules which govern the conduct of council business.

4.3 The 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 (see section 5), but 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 Development Control and Environmental Protection Committee or Planning Committees is the requirement that a member:

“must not in his official capacity, or any other circumstances, use or threaten to use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage;” (Paragraph 5(1)(a) of Code).

4.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on the Borough Council's Development Control and Environmental Protection Committee or Planning Committee.**

4.5 Councillors should also be very cautious about accepting gifts and hospitality, material benefits or advantage. The Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £25, to provide within 28 days of its receipt written notification of the details to the monitoring officer of the council.

Such details will go in a register of gifts and hospitality, which will be open to inspection by the public. This requirement also applies to any offer of any gift, hospitality, material benefit or advantage whether or not the member accepts that offer. The best advice is for all gifts to be declined.

- 4.6 Similarly, during the course of carrying out their duties, officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Officers are required to register any such hospitality as part of the Council's code of conduct for employees. However, members and officers should take care to ensure that they do not commit an offence contrary to the Prevention of Corruption Acts 1889-1916 when accepting any form of inducement.
- 4.7 Employees must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as membership of political parties and serving on another council.

5. Registration and declaration of interests

Registration of interests

- 5.1 The Local Government Act 2000 and the Code of Conduct place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Responsibility for fulfilling the requirements rests individually with each Councillor.
- 5.2 A register of members' interests is maintained by the Council's monitoring officer, which is available for public inspection. A member must provide the monitoring officer with written details of relevant interests within 28 days. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

Declaration of interests

- 5.3 The Code of Conduct abandons the use of the terms 'pecuniary' and 'non-pecuniary' interests. Instead it uses the terms '**personal**' and '**prejudicial**' interests. The code defines a personal interest in any matter under discussion as:

- (1) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; and
- (2) if a decision upon it might reasonably be regarded as affecting **to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, a relative or a friend, or
 - any employment or business carried on by such persons;
 - any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.

5.4 Where a member considers he has such a personal interest in a matter, he must always declare it, but **it does not then necessarily follow that the personal interest debars the member from participation in the discussion.**

5.5 The member needs to consider whether the personal interest is a **prejudicial** one. The code provides that a personal interest becomes a prejudicial one **"if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest"**. If a member has such an interest, he should not participate in a discussion on the matter and **must withdraw from the room** and must not seek improperly to influence a decision in the matter.

5.6 The code will include some exceptions to this. For example, if the matter under discussion relates to:

- another authority of which the Councillor is a member;
- another public authority in which the Councillor has a position of general management or control;
- a body to which the Councillor has been appointed or nominated as a representative of the authority.

Then, in these circumstances, the interest **may not be regarded as prejudicial**. In practice, therefore, the member would need to declare the interest, but could participate.

5.7 It can be seen that the provisions of the code are an attempt to separate out interests arising from the personal and private interests of the Councillor and those arising from the councillor's wider public life.

The emphasis is on a consideration of the status of the interest in each case by the Councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. The Standards Board will from time to time provide guidance on code. In the end, however, the decision will be for the Councillor alone to take.

- 5.8 Translated to a councillor's involvement in planning issues, the two stage test of personal the prejudicial interests will, as now, require a Councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the Councillor, his family, friends or employer.
- 5.9 If a member, in advance of the decision-making meeting had taken a firm view on the planning matter either in meetings of the other body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account – they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. This is also the general approach taken by this guidance on appropriate conduct in relation to membership of other bodies and the effects of such membership on participation in the planning decision-making process. It is expanded in section 7 on lobbying.
- 5.10 Given the significance of well-informed and appropriate judgements by members on the declaration of interests, councils have been recommended to hold seminars at least annually on the issue, and the planning process generally. The Council does this through regular training seminars for members. The Standards Board nationally, and the Council's Standards Committee locally, have the statutory responsibility of promoting and maintaining high standards of conduct by members and assisting them to observe the authority's statutory code of conduct. In providing such guidance and training to members at local level, the Standards Committee is required to highlight to members the need to comply with this protocol.

6. Relationship with Applicants, Agents and Objectors

- 6.1 With all applications, Councillors must consider whether or not any relationship that they may have with the applicant, or the applicant's agent, or an objector, or any other party having an interest in the application is such that members of the public knowing the facts of the situation would reasonably think that the relationship might influence the decision of the Councillor concerned. If so, the Councillor should declare an interest at the meeting when the application is considered.
- 6.2 Any officer involved in the formulation of a recommendation in respect of an application or the determination of such application must also adopt the approach set out above and must advise the Development

Control Manager or Director of Development Services immediately of that interest. In these circumstances, another officer will be instructed to deal with the matter.

- 6.3 Councillors may be asked by a constituent how to go about making a planning application, or how a particular proposal might be viewed. There is no harm in providing advice but the complexity of the planning process and policies could lead to the person misunderstanding the situation. Councillors should ensure that the person is advised to contact the relevant council officer dealing with planning matters.

7. Development proposals submitted by councillors and officers; and council development

- 7.1 Proposals to the Borough Council by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for the Council's own development. Proposals can take the form of either planning applications or development plan proposals.
- 7.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 7.3 Serving Councillors who act as agents for people pursuing planning matters within the Council should play no part in the decision-making process for those proposals. Similarly, should they submit their own proposal to the Council, they should play no part in its processing.
- 7.4 Any applicant or agent who is a serving Councillor or an officer of the Council should make it clear at the time of submission of the planning application that this is the case and the Development Control Manager will keep a separate record of such applications.
- 7.5 An application made by a Councillor or officer where notice has been given will be determined by the Development Control and Environmental Protection Committee or the Planning Committee and not by officers under delegated powers.
- 7.6 Proposals for a Council's own development will be treated in the same way as those of private developers, in accordance with DoE Circular 19/92.
- 7.7 The consideration of a proposal (either a planning application or a development plan proposal) from a Councillor would be considered as a prejudicial interest under the Code of Conduct and as such, the Councillor would be required to withdraw from any consideration of the matter. The code also provides that the Councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor

should have any less rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a committee. If a Councillor wishes to speak against the Council's position at a local inquiry for personal reasons, he or she should make the position clear at the outset.

8. Lobbying of and by councillors

- 8.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a member of the Development Control and Environmental Protection Committee or the Planning Committee. As the Nolan Committee's third report states: **"It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves"** (paragraph 288). Any protocol failing to take account of the realities of the political/representative process will not carry credibility with experienced elected members.
- 8.2 However, such lobbying can lead, unless care and common sense is exercised by all the parties involved, to the impartiality and integrity of a Councillor being called into question. When being lobbied, councillors, and members of the Development Control and Environmental Protection Committee or the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at committee.
- 8.3 It should be remembered that reports on poor practices within local authorities are greatly concerned with the issue of lobbying. In a number of cases, lobbying has caused considerable public mistrust of the councils.
- 8.4 Councillors, and members of the Development Control and Environmental Protection Committee or the Planning Committee in particular, need to take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or another before hearing all the arguments makes them

vulnerable to an accusation of partiality. It is probably misleading to describe the determination of a planning application strictly as a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority). It is, nevertheless, a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. There is an added possibility that an aggrieved party may seek judicial review on the way in which a decision has been arrived at; or to complain to the Local Government Ombudsman on grounds of maladministration; or to the Standards Board for England that a member has breached the Code of Conduct.

- 8.5 In reality, of course, members will often form a judgement about an application early on in its passage through the system, whether or not they have been lobbied. The difficulty created by the nature of the committee's proceedings as set out in the paragraph above, is that members of the committee (at least those who are not councillors of the affected ward) should not openly declare which way they intend to vote in advance of the planning meeting, and of hearing evidence and arguments on both sides.
- 8.6 It is important to distinguish between the role of the Development Control and Environmental Protection Committee or the Planning Committee member and the role of ward member whose ward is affected by a particular planning application. A committee member who does not represent the ward affected is in an easier position to adopt an impartial stance, however strong his or her feelings about the application may be, and to wait until the committee meeting before declaring one way or another.
- 8.7 A Development Control and Environmental Protection Committee member who represents a ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If a member responds to lobbying by deciding to go public in support of a particular outcome – or even campaigning actively for it – it will be very difficult for that member to argue convincingly, when the committee comes to take a decision on the application, that he or she has carefully weighed the arguments presented. The proper course of action for such a member would be to make an open declaration and not vote.
- 8.8 In such circumstances, the member concerned will be permitted in declaring their interest to make a statement prior to debate on the proposal by the Committee but thereafter to take no further part in the debate and withdraw from the room.
- 8.9 Given that the point at which a decision on a planning application is made cannot occur before the committee meeting, when all available information is to hand, and has been duly considered, any political group meeting prior to the committee meeting should not be used to decide how councillors should vote. The view of the ombudsman in

relation to the former national code was that the use of political whips to seek to influence the outcome of a planning application could amount to maladministration. There is nothing in the Model Code which would serve to change this advice.

- 8.10 With the exception in some circumstances of ward councillors, whose position has already been covered in the preceding paragraphs, councillors should in general avoid organising support for or against a planning application and avoid lobbying other councillors. Such actions can easily be misunderstood by parties to the application and to the general public.
- 8.11 Councillors should not put improper pressure on officers for a particular recommendation, and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.
- 8.12 Councillors who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer, although, as indicated above, the decision rests with the Councillor.

9. Pre-application Discussions

- 9.1 Discussions between potential applicants and the officers are positively encouraged. The purpose of the discussions is to ensure that applicants can have an understanding of the Council's planning policies and local matters that might be material to the application in order that when the application is submitted it contains all the necessary information so that the application can be processed speedily. Discussions can also discourage applications being submitted which are unlikely to be approved in principle.
- 9.2 However, pre-application discussions are undertaken on the basis that they cannot bind the Council into making a particular decision. Any views expressed are personal and provisional. By the very nature of such meetings not all relevant information will be to hand and neither will formal consultations have been carried out with interested parties.
- 9.3 Advice given at meetings will be based upon the development plan and material considerations which appear relevant to the application.
- 9.4 A written note is kept of all potentially contentious meetings or telephone discussions with the developer or agent.

10. Officer Reports to Committee

- 10.1 Reports to committee are intended to be accurate and objective and include all matters relevant to the application.

10.2 Reports will include an explanation of relevant development plan policies, the site history, a description of the site and any other considerations. Reports will include the substance of objections and views of people making representations and also those of organisations who have been consulted on the application. Any late objections received after the agenda has been published will be reported in writing on the day of the meeting. Only very late comments will be presented orally.

10.3 All reports on applications will contain a written recommendation, although in the event of significant information being received after publication of the report that is fundamental to the recommendation, then an amended recommendation may be give verbally by the officer at the Committee meeting.

11. Correspondence Received by Councillors

11.1 The Council's Constitution requires any Councillor who receives correspondence relating to an application for planning permission, listed building consent or similar to provide the Director of Development Services (in practice, the Development Control Manager) with a copy of the correspondence as soon as conveniently possible. Details of such correspondence are included within the agenda papers for the Committee or in the list of late letters produced for the Committee.

12. Public Speaking at Committee

12.1 The Council provides the opportunity for public question time at all its committees and a leaflet is available to explain how the procedure operates.

12.2 There are also special arrangements for public speaking at the Development Control Committee and Environmental Protection Committee and the Planning Committee on applications. The purpose of the right to speak is to give members of the public the opportunity to make their views known directly to the committee about the planning merits of individual planning applications. The right to speak applies equally to objectors, supporters, and Parish Councils. Applicants or their agents have the right to speak only in response to an objector speaking at the meeting. A leaflet is available providing further advice on public speaking on planning applications.

13. Decisions contrary to officer recommendations and/or the development plan

13.1 The law requires that where the development plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise. (s.54 A Town and Country Planning Act 1990).

- 13.2 This gives rise to two main issues: first, all applications which are not in accordance with the development plan must be identified as soon as possible. They must then be advertised as such, as required by Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. Second, if it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan clearly demonstrated. The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed. If the officers' report recommends approval of such a departure, the justification for this is included, in the report.
- 13.3 If the Development Control and Environmental Protection Committee or the Planning Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal), a detailed minute of the committee's reasons is made. The officer should also be given an opportunity to explain the implications of the contrary decision at the meeting. The courts have expressed the view that such reason should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds.
- 13.4 Where the Development Control and Environmental Protection Committee or the Planning Committee are minded to refuse an application contrary to the officers' advice, the Committee will fully specify the grounds for refusal; these grounds are considered by the Senior Solicitor and the Development Control Manager in respect of their lawfulness and sustainability; and, if none of the grounds are considered to be lawful and sustainable the application will be referred back for determination to the next meeting of the Committee.
- 13.5 The Development Control and Environmental Protection Committee will refer to the Planning Committee for determination any proposed refusal of deemed planning permission or the reference back to the Cabinet of a decision to seek planning permission; any application which the Committee is minded to approve which, if approval, would result in a significant departure from the policies of the development plan; or any controversial application that the Committee fails to determine. The reason for determining any application for planning permission which is a significant departure will be minuted.
- 13.6 A senior legal officer always attends the meeting to ensure that procedures have been properly followed. Whilst the Council makes extensive use of standard wordings for conditions, in the case of any conditions which councillors may wish to add to or amend, officers have delegated powers to draft such conditions which need to be reasonable and relevant to the permission.

14. Committee Site Visits

- 14.1 Visits to application sites by the Development Control and Environmental Protection Committee or the Planning Committee are only likely to be necessary when the proposed development is difficult to visualise from plans, where there is good reason why the comments of the applicant and objectors cannot be adequately expressed in writing, or, where a proposal is particularly contentious.
- 14.2 Site visits take place on the day of Committee following a schedule agreed by the Chairman which takes account of any members requests. Members should bear in mind that a site visit should only be held where the expected benefit is substantial. The Audit Commission have criticised councils who undertake unnecessary site visits.
- 14.3 Site visits consist simply of inspecting the site to assist members to appreciate relevant land use issues of the proposal. Members should not engage in discussion with the applicant, agent or objectors on the merits of the application if they are present, nor express a view on the proposal on the site. The discussion of the merits of the application and the decision takes place at the meeting, not at the site visit.

15. Conduct at Meetings

- 15.1 The conduct of any meeting where a planning application is considered is the overall responsibility of the chairman of that meeting. If the Chairman believes that a member is not observing the rules regarding declaration of interest, then he may have to take action to ensure that Standing Orders are not breached. In addition, individual councillors and officers have a responsibility for their own conduct and should not operate in such a way as to cause anyone present to think an application has not been treated properly.
- 15.2 The determination of applications by the Development Control and Environmental Protection Committee or Planning Committee is part of a formal administrative process and opinions and comments of Members should be restricted to the relevant planning merits or otherwise of the application.
- 15.3 The Committee may, very occasionally, determine that an item on the agenda relates to an exempt matter under Schedule 12A of the Local Government Act 1972 which requires the exclusion of the public from the meeting. It is unlikely that this would ever relate to the determination of a planning application but could relate to an enforcement matter or when legal advice is being given.

16. Regular review of decisions

- 16.1 The report of the Audit Commission entitled "Building in Quality" recommended 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 policy.

16.2 Such reviews have been undertaken in the past and are best undertaken at least annually. They can include examples from a broad range of categories such as major and minor development, listed building works and enforcement cases. The Development Control and Environmental Protection Committee, Planning Committee and the Planning and Environment Overview and Scrutiny Committee could be involved in the review and decide whether it gives rise to the need to reconsider any policies or practices.

17. Complaints

17.1 The nature of planning is such that many decisions are contentious and some people can remain dissatisfied with the outcome of an application.

17.2 Despite taking care in processing applications and making decisions, complaints are made but it is hoped that the adoption of this protocol will greatly reduce occasions on which a complaint may be justified.

17.3 The Council has its own complaints system and if a complainant is dissatisfied with the outcome following the investigation of a complaint, there is a further opportunity of lodging a complaint with the Local Government Ombudsman.

17.4 Every planning application file contains an accurate record of events throughout its life. It should be possible for someone not involved in the application to understand why the decision was and how and why it was reached. Where decisions are taken under the officers' delegated powers, these decisions are also accurately recorded and documented.

17.5 Whatever procedures a council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.

TAMWORTH BOROUGH COUNCIL

MONITORING OFFICER PROTOCOL

A GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

- 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.
- 2 The current responsibilities of the Monitoring Officer role rest with the Solicitor to the Council, who undertakes to discharge his statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, he will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 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:-
 - a) complying with the law of the land (including any relevant Codes of Conduct);
 - b) complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
 - c) making lawful and proportionate decisions; and
 - d) generally, not taking action that would bring the Council, their offices or professions into disrepute.
- 4 In the absence of the Monitoring Officer this Protocol shall apply to the Deputy Monitoring Officer.

B WORKING ARRANGEMENTS

- 5 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.

6 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:-

- (a) 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;
- (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team (or equivalent arrangements);
- (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team (or equivalent arrangements);
- (d) 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;
- (e) ensure the other statutory officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service, Chief Financial Officer and the Standards Committee;

- (h) 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;
- (i) have a special relationship of respect and trust with the Leader, Deputy Leader and the Chairs of the Cabinet, Standards, Licensing, Planning and Overview and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
- (j) 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;
- (k) maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- (l) give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Standards Committee (unless the Chair of Standards Committee agrees a report is not necessary) if, in the opinion of the Monitoring Officer, there is a serious breach of the Councils Code of Conduct for Members;
- (m) in consultation, as necessary, with the Chairs of the Council, Cabinet and Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (n) have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
- (o) subject to the approval of the Standards Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and
- (p) 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.

7 To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other

vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

- 8 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.).
- 9 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.

C SANCTIONS FOR BREACH OF TAMWORTH'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL

10. Complaints against any breach of Tamworth's Code of Conduct for Members must be referred to the Standards Committee, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member will be referred to the Standards 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.

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on resources.	Section 5 Local Government and Housing Act 1989.
5	Receive copies of whistleblowing allegations of misconduct.	Draft Model Code.
6	Investigate misconduct in compliance with Regulations (when made) and directions of Ethical Standards Officers.	Regulations when made. Directions when made in individual cases. LGA 2000 Section 66(1)+66(6).
7	Establish and maintain registers of members interests and gifts and hospitality.	Section 81 LGA 2000 and draft Model Code.
8	Advice to members on interpretation of Code.	Draft Model Code and consultation Paper.
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance paragraph 8.20.
10	Liaison with Standards Board and Ethical Standards Officers.	New ethical framework, practical implications.
11	New ethical framework functions in relation to Parish Councils.	Section 83(12) LGA 2000.
12	Compensation for maladministration.	Section 92 LGA 2000.
13	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members.	DETR guidance.

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.

Section A – Financial Interests

a) *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 declare for income tax purposes, i.e. that is carried on for profit or gain.

Give a short description of the activity concerned, e.g. "Computer Operator", "Farmer" or "Accountant". For these purposes being a Councillor need not be declared as an occupation. Equally Cabinet members do not need to declare their Cabinet responsibilities or the amount of responsibility allowance that they are in receipt of from the Borough Council for carrying out those duties. That information is available to the public through other means).

b) *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).

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.)

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.)

c) 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.)

- d) ***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 issued 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:

- those companies have a place of business or land in the authority's area; and
- 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.)

- e) 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 d) 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.)

- f) 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.)

- g) 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 d) 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.)
- h) 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.)

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:

- a) *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.)
- b) *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, Standards Board for England, County Council, Parish Council(s); and the Local Government Association (including WMLGA).

- c) *Company, industrial and provident society, charity or body directed to charitable purposes:*
(Membership of or position of general control or management of any company, industrial and provident society, charity or body directed to charitable purposes need to be inserted here. These bodies are those on which you serve in your own capacity as opposed to being appointed or nominated by the Borough Council as its representative. The latter needs to be included within section B a) as indicated earlier. Equally, charitable purposes includes educational establishments and, as such, school governorships need to be declared.)
- d) *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.)
- e) *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.)
- f) *Private club or society such as freemasons, recreational club, working men's club or private investment club:*
(You should include on the form your membership of any private club or society such as freemasons, recreational club, working men's club or private investment club.)

NOTES

- **Societies registered under the Industrial and Provident Societies Act 1965 are bodies corporate with limited liability and are known as “industrial and provident societies”. To qualify as such a society, its membership should not be less than three. A society with any withdrawable share capital shall not carry on the business of banking. Otherwise a society for carrying on any industry, business or trade, whether wholesale or retail, is regarded as an industrial or provident society if that society is a bona fide co-operative society, or if the society is or is intended to be conducted for the benefit of the community. A society's rules must contain provision in respect of matters mentioned in schedule 1 of the above Act, and the society's registered office must be in Great Britain or the Channel Islands. Examples, some leisure trusts, some working men's clubs and some housing associations.**
- **A trade union means an organisation, whether temporary or permanent, which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the**

regulation of relations between workers of that description or those descriptions and employers or employers' associations. A trade union can also mean an organisation, whether temporary or permanent, which consists wholly or mainly of constituent or affiliated organisations which fulfil the conditions mentioned in the previous sentence, or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions or representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between workers and employers, or between workers and employers' associations, or the regulation of relations between its constituent or affiliated organisations.

- If a legal body to which you have been appointed or nominated by the Borough Council subsequently appoints or nominates you to another company, industrial and provident society, charity or body directed to charitable purposes, then that other body must also be declared in Section B c).
- **Members must inform the Monitoring Office in writing, and within 28 days, of any changes or additions which should be made to their entries in the Register of Members' Interests.**
- **Declaring an interest in the Statutory Register of Members' Interests form does not remove the duty on the member to declare the interest at any relevant meeting of the Borough Council, the Cabinet, Committees etc.**

Part 6

Members' Allowances Scheme

DRAFT

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:-

1. 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.

2. 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.

Basic Allowance

3. Subject to Paragraph 6, for each year a basic allowance of £5,120 shall be paid to each Councillor.

Special Responsibility Allowances

4. (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.

(2) Subject to paragraph 8, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.

(3) A Councillor shall be entitled to claim only one special responsibility allowance

Renunciation

5. A Councillor may by notice in writing given to the Corporate Director - Resources elect to forego any part of his/her entitlement to an allowance under this scheme.

Part-year Entitlements

6. (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.
- (2) If an amendment to this scheme changes that amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
 - (b) beginning with the day on which amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year;

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.

- (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.
- (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.
- (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) 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.
- (7) When an elected Councillor or a Co-optee is suspended from acting as a Member of the Council or a Committee they are appointed to. After being found in breach of the Code of Conduct then the Standards Committee should be empowered to suspend in whole or in part the allowance payable to that Councillor and/or Co-optee.

Payments

7. (1) Payment shall be made in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one-twelfth of the amount specified in this scheme on the 20th day of each month;
- (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.

Approved Duties

8. An "approved duty" means a meeting of the authority or of any Committee or sub-Committee or of any other body to which the authority makes nomination or any other duty approved by the Solicitor to the Council after consultation if necessary with the Cabinet, for the purpose of or in connection with the discharge of the functions of the Committee, or any of its Committees or sub-Committees or any duty of a class so approved

Travelling and Subsistence

9. Payment to Councillors and Co-optees for travelling and subsistence will be made in accordance with the rates payable to Officers under the NJC casual mileage scheme where expenditure is incurred for the purpose of performing any approved duty.

Attendance at Conferences and Training Events

10. The Solicitor to the Council, after consultation with the Cabinet if necessary, may approve the payment of the cost of attendance at Conferences and Training Events and the payment of travelling, subsistence and attendance allowance(s) in accordance with the rates prescribed by the Secretary of State

Childcare and Dependent Relatives Allowance

11. Payment for childcare and dependent relatives' allowance will be in accordance with **Schedule 2**

Claims Payment

12. Claims for travelling, subsistence and attendance allowance(s) should be submitted to Democratic Services in writing on a form approved by the Executive Director Corporate Services.

Variation

- 13 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.

Local Government Superannuation Scheme

- 14 All Members of the Council shall be entitled to pensions in accordance with the scheme made under Section 7 of the Superannuation Act 1972. Both the Basic Allowance and Special Responsibility Allowances shall be treated as amounts in respect of which such pensions are payable in accordance with the said superannuation scheme.

SCHEDULE 1

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances or such uprating as may subsequently be agreed :-

Leader of the Council	£12,814
Deputy Leader of the Council	£9,610
Member of Cabinet (other than Leader and Deputy)	£8,329
Chairs of Scrutiny Committees	£5,766
Vice Chairs of Scrutiny Committee	£1,193
Chair of Planning Committee	£5,766
Chair of Licensing Committee	£5,766
Chair of Standards Committee (Co-optee)	£1,922
Chair of Audit and Governance Committee	£1,922
Leader of the (larger) Opposition Group	£5,766
Deputy leader of the (larger) Opposition Group	£3,203
Co-optees	£311

CHILDCARE AND DEPENDENT RELATIVES ALLOWANCE

1. 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.
2. Dependants are defined as:
 - a) **children** under the age of 14 for whom the councillor is normally responsible.
 - b) **elderly, ill or disabled dependants** who require full time care and for whose care the councillor is normally responsible.
3. The claim for payment must be for **actual expenses incurred**, for carers over age 22 at a rate of £5.73 CHECK RATES per hour and carers aged 18-21 at a rate of £4.77. Claims shall also be indexed to the minimum wage. All claims shall be made on the attached form, **Annex 1**.
4. The Council has discretion to consider payment of an amount exceeding the amount specified in 3. above if special circumstances apply.

TAMWORTH BOROUGH COUNCIL

APPLICATION FOR PAYMENT OF CHILDCARE AND DEPENDENT RELATIVES ALLOWANCE

COUNCILLOR.....

DESCRIPTION OF APPROVED DUTY.....

.....

DATE OF APPROVED DUTY.....

AMOUNT CLAIMED.....

I declare that to enable me to perform an approved duty I have necessarily incurred expenditure to provide care for a child aged 14 or under/*a dependant with a disability/*an elderly relative requiring care/*a dependant who is ill.

Signature of Councillor.....

Date.....

**Delete as appropriate*

Please return this form to Democratic Services

Part 7

Management Structure

DRAFT

Corporate Management Team



Chief Executive
Tony Goodwin



Executive Director
(Corporate Services)
John Wheatley



Director
(Finance)
Stefan Garner



Solicitor to the Council
Jane Hackett



Director
(Technology & Corporate Programmes)
Nicki Burton



Director
(Transformation & Corporate Performance)
Anica Goodwin



Director
(Communities, Planning & Partnerships)
Rob Mitchell



Director
(Housing & Health)
Rob Barnes

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