

Meeting: **SPECIAL AUDIT COMMITTEE**
Date: **12 JUNE 2014**
Time: **2.00PM**
Venue: **COMMITTEE ROOM**
To: **Councillors C Pearson (Chair), J Cattanach, Mrs D Davies,
M Dyson, Mrs C Mackman (Vice Chair), J McCartney,
I Nutt, R Price and Mrs S Ryder**

Agenda

1. Apologies for absence

2. Disclosures of Interest

Members of the Audit Committee should disclose personal or prejudicial interest(s) in any item on this agenda.

3. Chair's Address to the Audit Committee

4. A/14/2 – Constitutional Changes

To receive the report of the Solicitor to the Council, pages 2 to 24 attached

Mary Weastell
Chief Executive

Date of Next Meetings
18 June 2014
24 September 2014
14 January 2015
15 April 2015

Enquiries relating to this agenda, please contact Richard Besley on:
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To: Audit Committee
Date: 12 June 2014
Author: Gillian Marshall, Solicitor to the Council
Lead Officer: Mary Weastell, Chief Executive
Executive Member: Councillor Mark Crane

Title: Review of the Constitution

Summary: This Report sets out the Sections of Part 4 of the Council's Constitution – Rules of Procedure. It identifies where amendments are required by law, whether forthcoming legal changes might impact on the Constitution and Officers suggest discretionary changes may be made. It provides documentation from other Councils by way of comparison and invites the Audit Committee to consider what changes to the Constitution should be recommended.

Recommendations:

- (i) To consider the amendment to the provisions for a recorded vote set out in paragraph 2.1 below and, if it is considered appropriate, to recommend to Council an amendment to the Council Procedure Rules as drafted.**
- (ii) To consider the draft Protocol set out at appendix A and make any comments. If amendments are considered appropriate, to instruct officers to redraft the Protocol for further consideration.**
- (iii) To consider the potential amendments set out in appendix B and instruct officers to redraft the necessary elements of Part 4 for further consideration.**

Reasons for recommendation

- (i) To implement the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.
- (ii) To ensure that the Council has an appropriate protocol in place prior to the implementation of The Openness of Local Government Bodies Regulations 2014.
- (iii) To progress the review of the Constitution.

1. Introduction and background

- 1.1 Audit Committee have been requested to undertake a review of the Constitution of the Council and report back to the Executive and to Council (minute 94 of Council on 29 April 2014 refers)
- 1.2 Audit Committee has resolved to look first at Part 4 of the Constitution – the Rules of Procedure. This report summarises the contents of that part, identifies areas where legislation requires an amendment (and proposes textual amendments in those areas) and areas for discussion where amendments can be considered but are not required by law.

2. The Report

2.1 Contents of Part 4

Part 4 contains

- The Council Procedure Rules which govern the conduct of business at meetings of the Council, Committees and Sub Committees
- the Access to Information Procedure Rules covering the Publication of Agendas, dealing with confidential and potentially exempt information, the forward plan and records of decisions and the Councillors right to access to information.
- The Budget and Policy Framework rules including the making of decisions outside the framework, urgent decisions and call in
- the Executive Procedure Rules covering the election and role of the leader, appointment of executive members and the conduct of meetings of the Executive
- the Overview and Scrutiny Procedure Rules covering the conduct of meetings, call in and the work programme
- the Community Engagement Forum Procedure Rules including the purpose, terms of reference of the community engagement forums and conduct of meetings
- Financial Procedure Rules
- Officer Employment Procedure Rules
- Contract Procedure Rules
- Petitions Procedure Rules

2.2 Amendments required by legislation

- 2.2.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 introduced a requirement for recording votes on budget meetings.

The Council Procedure Rules currently provide: –

If 6 of the councillors 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.

The suggested amendment to comply with the regulations is as follows:

Where a recorded vote is required in accordance with paragraphs (a) or (b) below then the minute of the proceedings shall include a record of the names of persons who cast a vote for the decision or against the decision or who abstained from voting.

A recorded vote is required in the following circumstances:-

- (a) Any vote required to be recorded by law, or*
- (b) Any vote where, before the vote is taken on any matter before Council, any 6 of the Councillors present at the meeting demand that the votes are recorded.*

Paragraph (a) could then be footnoted to refer to the Regulations. If any additional legal requirements are introduced then the footnote can be amended without the need to amend the text.

2.2.2 The Government has published a draft statutory instrument, The Openness of Local Government Bodies Regulations 2014. In summary these Regulations if they become law will require the Council to allow any person to attend a public meeting of Council, a Committee or Sub-Committee or the Executive for the purposes of reporting, and allow any persons with the aim or reporting to use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities, during or after the meeting.

'Reporting' is defined as:

- filming, photographing or audio recording of proceedings
- using any other means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later, and
- reporting or providing commentary on proceedings of a meeting, orally or in writing.

The changes will not affect the current circumstances in which a private meeting may be held or a person may be excluded (for example, where exempt information would be disclosed or in the case of disorderly conduct).

The effect of these regulations will be that the Council must open up its meetings and allow filming, recording, blogging and live tweeting. It is therefore recommended that the Council consider adopting (whether as part of the constitution or as a separate document) a Protocol governing the recording of Council meetings. Sample protocols are attached at appendix A for discussion.

It is not known when these Regulations will be brought into force however it is expected that this will occur during the course of this

constitution review and therefore any amendments to the constitution are appropriately discussed at this point.

2.3 Potential Amendments for Discussion

Appendix B is a table setting out the elements of Part 4 identifying areas where officers consider that amendments could be made for discussion.

This table is provided as a prompt to discussion. It does not prevent the Audit Committee discussing other potential amendments subject to any proposals relating to Executive Arrangements being considered and approved by the Executive and all other potential amendments being considered and approved by Council.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

3.1.1 Under Article 15 of the Constitution changes will only be approved by Council after consideration of the proposals by the Executive taking into account the advice of the Chief Executive or Monitoring Officer.

3.1.2 Matters relating to Executive Procedure Rules are a matter for the Executive to determine subject to compliance with the Local Government Act 2000.

Financial Issues

3.2.1 There are no financial issues arising from this report.

4. Conclusion

4.1 That Audit Committee should consider the necessary and potential amendments set out in this Report together with any potential amendments that they consider appropriate.

5. Background Documents

None

Contact Officer: Gill Marshall Solicitor to the Council x42095

Appendices:

- Appendix A – Bournemouth and Cambridge Protocols
- Appendix B – Potential Amendments for Discussion
- Appendix C – Hambleton D C Budget & Policy Framework
- Appendix D – Extract from N W Leicestershire Constitution (Departures Scheme)



Protocol for filming and audio recording at public Council meetings

Version 1.0 dated 4 March 2014

Published by the Council's Monitoring Officer

M:\Meetings\Filming\Briefing on legal implications for SG\Changes to Constitution and protocol\Protocol for filming and audio recording at public Council meetings - Jan 2014.docx

Protocol for filming and audio recording at public Council meetings

The Council supports the principle of transparency and encourages filming and reporting by means of social media at its full Council, statutory Boards, Cabinet, Committee and Panel meetings that are open to the public. It also welcomes the use of social networking websites - such as Twitter and Facebook - and micro-blogging to communicate with people about what is happening, as it happens.

There is no requirement to notify the Council in advance, but it should be noted that the Chair of the meeting will have absolute discretion to terminate or suspend any of these activities if, in their opinion, continuing to do so would prejudice proceedings at the meeting. The circumstances in which termination or suspension might occur could include:

- public disturbance or suspension of the meeting
- the meeting agreeing to formally exclude the press and public from the meeting due to the confidential nature of the business being discussed
- where it is considered that continued recording/filming might infringe the rights of any individual
- when the Chair, considers that a defamatory statement has been made.
- when requests are received from other members of the public to cease recording when they speak – for example when presenting a deputation or petition or asking a question.

In allowing this, the Council asks those recording proceedings not to edit the film/ record in a way that could lead to misinterpretation of the proceedings, or infringe the core values of the Council. This includes refraining from editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being filmed/ recorded.

Those intending to bring large equipment, or wishing to discuss any special requirements are advised to contact the Council's Communications Team in advance of the meeting to seek advice and guidance. The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.

At the beginning of each meeting, the Chair will make an announcement that the meeting may be filmed or recorded. Meeting agendas will also carry this message.

Cambridge City Council protocol on audio/visual recording and photography at council meetings

The Council is committed to being open and transparent in the way it conducts its decision making. Recording is permitted at council meetings which are open to the public. The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chair of the meeting will facilitate by ensuring that any such request not to be recorded is respected by those doing the recording.

The rules which the Council will apply are:

1. Anyone wishing to record must let the Chair of the meeting know and the recording must be overt (i.e. clearly visible to anyone at the meeting). The Council will supply signs which will be deployed at any meeting all or part of which is to be recorded.
2. The Chair of the meeting has absolute discretion to stop or suspend recording if in their opinion continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules. The circumstances in which this might occur include :
 - recording is disrupting the proceedings of the meeting
 - there is public disturbance or a suspension of the meeting
 - the meeting has resolved to exclude the public for reasons which are set down in the Council's Constitution
3. Any member of the public has the right not to be recorded.
 - We ensure that agendas for, and signage at, council meetings make it clear that recording can take place – if anyone does not wish to be recorded they must let the Chair of the meeting know
4. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Council's values or; in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

Notes for guidance:

- Please contact Democratic Services in advance of the meeting if the recording you wish to do involves large equipment or special requirements.
- The use of lighting for filming/flash photography is allowed if it is arranged with Democratic Services prior to the meeting. We require this so we can ensure the meeting will not be unduly disrupted and there is a safe environment to transact the business.

A failure to follow these requirements may lead to a request to record being refused at subsequent council meetings.

Recording and reporting the council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation.

Appendix B – Potential Amendments for Discussion

Report Ref :

section	comments	potential changes
Council Procedure Rules	<p>CPR 1.2 sets out the standing committees of the Council. The number of committees and members can be discussed in this session or in looking at Part 3 – Responsibility for Functions</p> <p>Legislation requires the Council to have at least one Overview and Scrutiny Committee and a Licensing Committee consisting of between 10 and 15 members.</p> <p>CPR 11 includes two provisions relating to questions by councillors. Rule 11.1 allows questions to the leader, executive member or chair of the committee on any matter within their responsibility. Rule 11.2 allows questions on notice. The only additional right provided by 11.2 is to pose a question to the chairman. Questions asked under 11.2 require three clear days' notice of the question or, if the matter is urgent, notification by noon of the day of the meeting to the Chief Executive and the consent of the chairman. It is recommended that these two provisions be discussed and redrafted in a way that does not duplicate and promotes the efficient administration of business at the meeting.</p>	<p>CPR 11.1 and 11.2 either</p> <p>A) amend 11.1 so that questions put without notice can only relate to matters in the submitted report so that all other questions must be made on notice (this was the position when the constitution was originally drafted but the right to ask questions was then expanded to allow questions on all areas within the portfolio), OR</p> <p>(B) amalgamate 11.1 and 11.2 to allow any question to be asked without notice but subject to clear rules on duration and supplementary questions</p>

	<p>CPR 12 refers to petitions – see later comments on the petitions procedure rules.</p> <p>CPR 15 Rules of Debate 15.1 requires that no speeches may be made until a proposal has been moved and seconded. By CPR 26 rule 15 applies to meetings of committees including the Planning Committee. In the context of planning it may be more appropriate to open the application and officer recommendation to debate before a proposal is moved. It is therefore proposed that CPR 15.1 should not apply to the Planning Committee.</p> <p>CPR 19.1 the circumstances in which a vote decided other than by a simple majority is allowed are prescribed by legislation and are very limited. For clarity the words 'or the law' could be inserted after Constitution and before the word provides.</p> <p>CPR 25.1 allows suspension of all rules except 19.5 and 22. As there is now requirement for the record vote on budget matters it is suggested that rule 19.4 should be added to the list of rules that cannot be suspended in order to comply with the law.</p> <p>CPR 28 deals with the appointment of substitute members. Under section 101 Local Government Act 1972, Council should appoint substitute members. It is therefore recommended that the appointment of substitutes be included here by creating pools of substitutes who can be allocated to the committees so for example any member of the Planning Committee can substitute for any member of the Licensing Committee and vice versa, any member of the Overview and Scrutiny Committee can substitute for any member of</p>	<p>CPR 26 could be amended to exclude the application of rule 15.1 to the planning committee.</p> <p>Amend CPR 19.1 to include the suggest wording</p> <p>Amend CPR 25.1 to add 19.4 the list of rules cannot be suspended</p> <p>Amend CPR 28 to create rules relating to the allocation of substitutes</p>
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	the Audit Committee and the Policy Review Committee and vice versa.	
Access to Information Procedure Rules	<p>These rules need amending slightly to reflect the requirements in the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations Rules 2012 as well as the Draft Openness Regulations.</p> <p>Reference to the standards committee in the AIPR should be removed as the Council no longer has the standards committee.</p> <p>References to additional categories of exempt information for the standards committee can be removed on page 80</p>	A revised draft of the rules will be circulated as an additional appendix at the meeting.

<p>Budget and Policy Framework Rules</p>	<p>The intention of these rules is to clarify what the executive and officers exercising delegated authority may do without reference back to full Council.</p> <p>A large element of these rules is taken directly from the Local Authorities (Function and Responsibilities) (England) Regulations 2000 and it is difficult to avoid the technical nature of the drafting.</p> <p>A copy of the relevant extract from the constitution of Hambleton District Council is provided at appendix C for comparison.</p> <p>Audit Committee could usefully consider how these provisions could be expressed in a different manner so that they are easily understood.</p>	
<p>Executive Procedure Rules</p>	<p>2.1 (d) should be removed</p> <p>2.4 there is no statutory requirement to limit the term of office of an executive councillor to 2 years</p> <p>2.7 there is no statutory requirement to limit the term appointment of the deputy leader to 2 years</p> <p>3 for clarity the words 'at any time before the delegated body has made a decision on the matter' could be added to the end of rule 3 to make it clear that the executive delegating body may not take back responsibility when a decision has already been lawfully made</p> <p>5 – Statutory Officers have the right to speak at meetings on issues affecting their statutory responsibilities. A definition of Statutory Officer should</p>	<p>This was a locally set limit when the constitution was drawn up.</p> <p>As above</p>

	<p>be added to the glossary of terms. Statutory officers are the Chief Executive (Head of Paid Service), the Monitoring Officer and the Section 151 Officer.</p>	
<p>Overview and Scrutiny Procedure Rules</p>	<p>The rules indicate that it is possible to for the scrutiny committee to appoint a scrutiny sub-committee.</p> <p>It is important to note here the difference between the sub- committee which can have delegated decision making powers and a working group or task and finish group which does not. The former need not report back to the full committee (providing the powers are delegated when the sub-committee is set up and not referred). The latter must do so.</p> <p>Sub-Committees must be politically balanced (Local Government and Housing At 1989)</p> <p>Rule 6 requires Council approval of the work programme. This is not a requirement of the legislation.</p> <p>The membership of the scrutiny committees may change at the AGM and at the end of the 2014/15 municipal year this provision will require the committees to set their work programme. However, in the new municipal year after the election there may be different membership and priorities but until the new committee is appointed at the AGM no amended work programme can be considered. In addition rule 6 allows any member of scrutiny to add an item to the Agenda, and Councillor to request an item be scrutinised and the Council or the Executive to refer a matter. As such the Work Programme is adjusted regularly.</p>	<p>It may be useful to clarify that sub-committees must have terms of reference, be politically balanced and have clear delegation of powers. However this point applies to all sub committees and so may be better included under CPR 26 rather than under OSPR.</p> <p>This requirement could be dispensed with</p> <p>The constitution could be amended so that at the first meeting of the scrutiny committee in each municipal year it should set a work programme for the coming year which should then be provided to Council for information rather than approval.</p> <p>It is also recommended that Rule 6 be sub-divided into programmed items and requests for scrutiny and confirm that it covers the Councillor Call for Action and Crime</p>

	<p>Rule (g) applies where the scrutiny committee refers a matter to Council. As this rule makes clear, Council has no standing to amend the decision. Audit Committee should consider the advantages of this approach in terms of proper Scrutiny against the impact on decision making</p> <p>7(i) could be simplified by cross-reference to the special urgency procedure in the executive procedure rules</p> <p>Rule 8 - to strengthen the role of the Forward Plan a Scrutiny Committee should consider the latest version of the plan to identify any items that they wish to scrutinise. Where committees are tracking recommendations (e.g. Audit Committee) these could be included in the list of normal business</p>	Provisions
Community Engagement Forum Procedure Rules	<p>Given the need to consider the future role of the Community Engagement Forums in the light of the move to 31 councillors it is recommended that the necessary amendments to the Procedure Rules be undertaken at that time along with necessary amendments to Part 3 setting the terms of reference for the forums and to the articles in Part 2</p>	
Financial Procedure Rules	<p>These rules described the system of checks and balances in place to ensure the proper administration of the financial affairs of the Council.</p> <p>It is a statutory responsibility of the Executive Director with Section 151 responsibilities to administer those affairs.</p>	

	<p>The Executive Director (s151) confirms that no statutory amendments are required to the financial procedure rules.</p> <p>Any amendments that the committee wishes to debate would have to be subject to detailed consideration by the Executive Director (s151) in consultation as required with the auditors and the Solicitor to the Council before officers can give a view on the legality and propriety of those amendments.</p>	
<p>Officer Employment Procedure Rules</p>	<p>These rules cover the appointment of officers. They require a candidate to declare any relationship to a councillor or any officer of the Council prior to appointment. They also prevent the lobbying of any councillor for support for an appointment.</p> <p>In general terms any appointment is subject to a specification setting out the duties and qualifications/qualities sought and the advertising of the post is required.</p> <p>Rule 3 provides that Council must approve the appointment of the Chief Exec and Monitoring Officer following te recommendations of an Appointments Panel.</p> <p>The Appointments Panel itself can appoint the Section 151 Officer and chief officers other than the Chief Exec. (Chief officers are defined in article 11 as the Chief Executive and the Deputy Chief Executive).</p>	<p>Rule 8 - the requirement to appoint on merit could usefully be moved to a more prominent position. 8(b) could then be incorporated within rule 7</p>

	<p>Rule 5 deals with disciplinary action. No action may be taken against a statutory officer except in accordance with the recommendation made by a designated independent person (DIP). The constitution needs to provide for the appointment of a DIP</p>	
<p>Contract Procedure Rules</p>	<p>On 15 January 2014 the European Parliament voted to adopt three new Directives - replacing the existing Public Sector and Utilities Directives and introducing a new Directive covering the procurement of works concessions and service concessions.</p> <p>Member States will have 24 months to implement the Directives but it is likely that implementation will happen sooner in the UK.</p> <p>The contract procedure rules will require comprehensive review to ensure that they meet the terms of new directive.</p> <p>It is therefore suggested that this be noted by the audit committee and that they recommend to Council a specific delegation to the Chief Executive in consultation with the Leader, Monitoring Officer, Executive Director (S151) and Solicitor to the Council to implement new contract procedure rules.</p>	
<p>Petitions Procedure Rules</p>	<p>The requirement to allow petitions previously contained in the Local Democracy Economic Development and Construction Act 2009 has now been abolished.</p> <p>If the Council determined that it no longer wished to follow a petitions process, but instead to allow public</p>	<p>An examples of the use of Deputations as an alternative is included as an appendix D</p> <p>Amendments needed to 4.1 where there is reference to a standards</p>

	participation to the public questions section of full Council or to allow for a deputation to Council without the need to comply with the petitions rules these procedure rules would no longer be required	assessment subcommittee
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Budget and Policy Framework Procedure Rules

1. GENERAL

In this part

“executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2003; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders)(England) Regulations 2001.

2. 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 Cabinet to implement it.

3. PROCESS OF DEVELOPING THE FRAMEWORK

a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of Scrutiny Committees will also be notified. The consultation period will usually not be less than 6 weeks in each instance.

b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.

c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.

d) Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (e).

e) Before the Council:-

(i) amends the draft plan or strategy;

(ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

(iii) adopts (with or without modification) the plan or strategy;

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

f) Where the Council gives instructions in accordance with paragraph (e), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:-

(i) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or

- ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- g) When the period specified by the Council, referred to in paragraph (f), has expired, the Council must, when;-
- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
 - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - (iii) adopting (with or without modification) the plan or strategy take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.
- h) Subject to paragraph (l), where, before 8 February in any financial year, the Council's Cabinet submits to the Council for its consideration in relation to the following financial year:-
- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 2012;
 - (ii) estimates of other amounts to be used for the purposes of such a calculation;
 - (iii) estimates of such a calculation; or
 - (iv) amounts required to be stated in a precept under Section IV of Part I of the Local Government Finance Act 2012,

and following consideration of those estimates or amounts the Council has any objection to them, it must take the action set out in paragraph (i).

- i) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (h), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- j) Where the Council gives instructions in accordance with paragraph (i), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:-
 - (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
 - ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- k) When the period specified by the Council, referred to in paragraph (j), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (h), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 2012, take into account:-

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Cabinet's reasons for those amendments;
- (iii) any disagreement that the Cabinet has with any of the Council's objections; and
- (iv) the Cabinet's reasons for that disagreement,

which the Leader submitted to the Council or informed the Council of within the period specified.

- l) paragraphs (h) to (k) shall not apply in relation to –
 - (i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 2012; and
 - (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

4. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a) Subject to the provisions of paragraph 6 (virement) the Cabinet, individual Members of the Cabinet and any officers, Area Committees 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 5 below.
- b) If the Cabinet, individual Members of the Cabinet or any officers, Area Committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or 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 5 (urgent decisions outside the budget or policy framework) shall apply.

5. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a) The Cabinet, an individual Member of the Cabinet or officers, Area Committees 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 Chairman of a relevant Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Scrutiny Committee the consent of the Chairman of the Council will be sufficient and in the absence of both the Vice-Chairman will be sufficient.

- b) Following the decision, the decision taker will provide a 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.

6. **VIREMENT**

- a) The Council shall have the following budget heads:

CORPRATE SERVICES	CUSTOMER SERVICES	HOUSING AND PLANNING	LEISURE AND HEALTH	RESOURCES
<ul style="list-style-type: none"> • Personnel & Payroll • Democratic Services • Committee Services • Elections • Design and Maintenance • Information and Improvement • Health and Safety at Work • Administrative Buildings • Legal Services • Defence against Flooding • Cemeteries and Closed Churchyards • Off-Street Parking • Footpath Lighting • Public Conveniences • Market Undertakings 	<ul style="list-style-type: none"> • Customer Services • Economic Development • Tourism • Partnerships • Visitor Centres • World of James Herriot • Workspace Management • Business Grants • Environmental Grants and Initiatives • Community Development • Grants and Subscriptions • Building Control • Business and Community • CCTV • Community Safety • Public Transport 	<ul style="list-style-type: none"> • Operational Services • Street Cleaning • Waste Collection • Recycling • Development Management • Planning Policy • Registered Social Landlords • Land Charges • Housing Services • Housing Strategy • Housing Standards • Housing Advice • Homelessness • Private Sector Housing Renewal • Depots 	<ul style="list-style-type: none"> • Arts Development • Lifestyles • Hambleton Forum • Sports Development Community Recreation • Hambleton Leisure Centre • Stokesley Leisure Centre • Bedale Leisure Centre • Galtres Centre • Thirsk Swimming Pool • Thirsk All Weather Pitch • Open Spaces • Leisure Services • Facilities • Environmental Health • Food Safety • Licensing • Pest Control • Public Health • Environmental Health and Licensing • Emergency Planning • Communications 	<ul style="list-style-type: none"> • Business Support • Interest & Investment Income • Corporate Management • Non-Distributed Costs • Corporate Management & Support • Resources • Efficiencies • Reprographics • ICT Services • Housing Benefits • Council Tax Collection • Revenues & Benefits • Pollution Reduction

- b) Steps taken by the Cabinet, an individual member of the Cabinet or officers, Area Committees or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads where each individual virement does not exceed that specified in the Financial Procedure Rules. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

7. **IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual Member of the Cabinet or officers, Area Committees 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 by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

8. **CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) Where a Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet 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 Financial Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Chief Financial 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/or 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 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 21 days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
 - i) endorse a decision or proposal of the Cabinet as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or the Director of Resources.

Appendix D

Extract from North West Leicestershire District Council Constitution – Deputations Scheme

19. DEPUTATIONS

- 19.1** Deputations may be received at any meeting of the Council following three clear days' written notice to the Head of Legal and Support Services. They must be about matters for which the Council has a responsibility or which affect the area. The notice must be signed by at least five persons and set out the subject which the deputation wishes to raise and how it relates to the Council's functions or affects the area. The Chairman may, on the advice of the Chief Executive, refuse a deputation which is illegal, scurrilous, improper, out of order or relates to a specific planning application or relates to a matter on which there has been a previous similar deputation within the preceding six months.
- 19.2** A person wishing to make a deputation must give written notice to the Head of Legal and Support Services no later than midday three clear days before the day of the meeting.
- 19.3** A maximum of two deputations only will be permitted at any meeting and they will be selected in the order notice is received. Only one deputation will be permitted if the Head of Legal and Support Services receives notice of a petition under Rule 18.
- 19.4** A deputation may consist of up to five people, of whom no more than two may speak, except to answer members' questions.
- 19.5** The deputation may address the meeting for no more than five minutes and members may then question the deputation for a further five minutes.
- 19.6** The relevant portfolio holder or board or committee Chairman may, if he or she chooses, then address the meeting for up to five minutes.
- 19.7** There shall be no vote taken on any deputation. A member may propose that the subject matter be placed on the agenda of the next ordinary meeting of the relevant board or committee, such a motion to be moved and seconded formally and put without discussion. If no such motion is moved or carried, the petition will be referred to the relevant Director, Head of Service or Team Manager who will respond to the petition in writing within 28 days.