



Summons and Agenda for the  
**Council Meeting**  
to be held on  
**14 October 2014**  
at  
**6.00pm**







To: All District Councillors

cc: Chief Officers  
Directors

You are hereby summoned to a meeting of the Selby District Council to be held in the Council Chamber, Civic Centre, Doncaster Road, Selby on **TUESDAY 14 OCTOBER 2014** starting at **6.00pm**. The Agenda for the meeting is set out below.

Chief Executive  
6 October 2014

# AGENDA

Opening Prayers.

## 1. Apologies for Absence

To receive apologies for absence.

## 2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

## 3. Minutes

To approve as a correct record the Minutes of the meeting of the Council held on 2 September 2014 (pages 1 to 6 attached).

## 4. Presentation by Lincoln Sargeant, Director of Public Health for North Yorkshire

To receive the presentation.

## 5. Communications

The Chairman, Leader of the Council or the Chief Executive will deal with any communications which need to be reported to the Council.

## 6. Announcements

To receive any announcements from the Chairman, Leader or Members of the Executive.

## 7. Petitions

To receive any petitions.

**8. Public Questions**

To receive and answer questions notice of which has been given in accordance with rule 10.1 of the Constitution.

**9. Councillors' Questions**

To receive and answer questions submitted by councillors in accordance with rule 11.2 of the Constitution.

**10. Reports from the Executive**

The Leader of the Council, and other members of the Executive, will report on their work since the last meeting of the Council and will respond to questions from Councillors on that work. (Pages 7 to 17 attached).

**11. Reports from Committees**

To receive reports from the Council's committees which need to be brought to the attention of Council. To receive questions and provide answers on any of those reports. (Pages 18 to 21 attached).

**12. Motions**

To consider any motions.

**13. Medium Term Financial Strategy**

To consider the Medium Term Financial Strategy. (Pages 22 to 49 attached.)

**14. Council Tax Support**

The Council is asked to consider the options for the Council Tax Support Scheme. (Pages 50 to 61 attached.)

**15. Business Rates Pooling**

The Council is asked to adopt the scheme. (Pages 62 to 77 attached.)

**16. Constitutional Amendments**

The Council is asked to consider the report. (Pages 78 to 275 attached.)

**17. Urgent Action**

The Chief Executive will report on any instances where she has acted in urgent or emergency situations under the functions delegated to her in the Constitution.

**18. Sealing of Documents**

To authorise the sealing of any documents necessary to action decisions of this Council meeting, or the Executive or any of its Committees for which delegated authority is not already in existence.

## Council

Venue: Council Chamber  
Date: 2 September 2014

33	Apologies for absence
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36	Communications
37	Announcements
38	Petitions
39	Public Questions
40	Councillors' Questions
41	Reports from the Executive
42	Reports from Committees
43	Motions
44	Access Selby Annual Report 2013/14
45	Treasury Management Sweeping Arrangements
46	Standards Annual Report 2013/14
47	Report of the Local Government Ombudsman
48	Urgent Action
49	Sealing of Documents

Present: Councillor J Cattanach in the Chair

Councillors L Casling, I Chilvers, M Crane, J Crawford, Mrs D Davies, J Deans, Mrs S Duckett, M Dyson, K Ellis, W Inness, Mrs G Ivey, M Jordan, C Lunn, Mrs C Mackman, J Mackman, B Marshall, J McCartney, Mrs M McCartney, Mrs K McSherry, C Metcalfe, R Musgrave, I Nutt, B Packham, C Pearson, D Peart, R Price, I Reynolds, S Shaw-Wright, R Sweeting and J Thurlow.

Also Present: Chief Executive, Deputy Chief Executive (and Monitoring Officer), Executive Director (S151), Managing Director of Access Selby, Director, Solicitor to the Council, Democratic Services Manager.

Press: 3  
Public:

**33. Apologies**

Apologies for absence were received from Councillors Mrs M Davis, M Hobson, D Mackay, Mrs P Mackay, Mrs E Metcalfe, Mrs W Nichols, A Pound, Mrs S Ryder, R Sayner and Mrs A Spetch,

**34. Declarations of Interest**

There were no declarations of interest.

**35. Minutes**

The minutes of the meeting of the Council held on 24 June 2014 were confirmed as a correct record.

**Resolved:**

**To approve the minutes for signing by the Chairman.**

**36. Communications**

None were received.

**Resolved:**

**37. Announcements**

None were received.

**38. Petitions**

No petitions were received.

**39. Public Questions**

No questions from members of the public were received.

**40. Councillors' Questions**

No questions from Councillors were received.

**41. Reports from the Executive**

The Leader of the Council reported on the work he had recently undertaken. He had attended the Civic Service in Cawood and offered his thanks to all those involved in organising what had been an excellent event. The Leader of the Council also referred to Councillor Roger Stone, the former Leader of Rotherham Borough Council and acknowledged his decision to stand down in light of the recent events at Rotherham. He also outlined that the Council hoped to hear



shortly whether it had been successful in purchasing Burn Airfield and provided a timeline for the review of the Council priorities.

Councillor Mrs G Ivey, Deputy Leader of the Council and Lead Executive Member for External Relations and Partnerships, reported on her recent work. She highlighted the recent success of the Selby Sportive which had been attended by over 700 riders and offered her thanks to Wigan Leisure and Culture Trust, Cancer Research UK and all those involved in creating an excellent event.

Councillor C Lunn, Lead Executive Member for Finance, reported on the work he had undertaken since the last meeting of the Council. As a member of the councillors' ICT pilot, Councillor Crawford gave a positive overview of his experiences to date.

Councillor J Mackman, Lead Executive Member for Place Shaping, reported on his latest work. The Council discussed the shortfall in housing delivery across the district and Councillor J Mackman gave an overview of recent comments made by the then Planning Minister Nick Boles at an event in Leeds. The Minister indicated that there would be continued pressure to deliver housing to meet current and future need. He then provided an update regarding the provision of Traveller Sites within the District.

Councillor C Metcalfe, Lead Executive Member for Communities, reported on his latest work. In response to a question regarding charging for parking in Tadcaster, he outlined that the Tough Stuff Board had commissioned work to more fully understand the usage of the car park. This work would be essential to any consideration of future charging

### **Resolved:**

**To receive and note the reports from the Executive.**

## **42. Reports from Committees**

The Chair of Policy Review Committee, Councillor M Jordan, reported on work of the Committee since the last update to Council. He responded to a question regarding the potential purchase of Burn Airfield and would consider the possibility of the Committee examining the operation of Section 106 agreements within the district.

Councillor J Crawford, the Chair of Scrutiny Committee, reported on work of the Committee since the last update to Council. In respect of the recent call in of the Executive's decision on representation on outside bodies, the Monitoring Officer clarified the position regarding any conflict of interest for staff members appointed to the Selby Internal Drainage Board. The Managing Director of Access Selby outlined that work was on going to resolve issues with the new phone system at Access Selby.

Councillor Pearson, the Chair of Audit Committee, reported on work of the Committee since the last update to Council. He offered his thanks to those

involved with the review of the constitution which would be received by the Council at its meeting in October.

**Resolved:**

**To receive and note the reports from the Committees.**

**43. Motions**

None received.

**44. Access Selby Annual Report**

As Chair of Access Selby Board, Councillor W Inness gave a presentation to the Council introducing Access Selby's Annual Report for 2013/14. The presentation gave an overview of the key successes, issues and challenges faced by Access Selby in 2013/14.

The Council discussed the interpretation of the public perception data collated by the Access Selby.

**Resolved:**

**To note the report and accompanying presentation.**

**45. Treasury Management Sweeping Arrangements**

Councillor C Lunn, Lead Member for Finance and Resources presented the report which set out the proposed arrangements for the future investments of the Council in line with the Selby District Council and North Yorkshire County Council (NYCC) Better Together partnership.

Councillor C Lunn set out the proposal for the future investments of the Council to be managed as part of an overall investment pool operated by NYCC. He set out that the pooling of the Council's funds would be achieved through a 'daily sweeping' arrangement. The arrangement would ensure the Council had instant access to required funds for its cash flow purposes whilst surplus cash was invested appropriately.

**Resolved:**

- i. To approve the proposed treasury management sweeping arrangement.**
- ii. To approve and adopt the North Yorkshire County Council 2014/15 Annual Investment Strategy and Lending List.**

#### **46. Standards Annual Report 2013/14**

The Monitoring Officer presented the Standards Annual Report which covered the period from July 2012 to March 2014. It covered the first part year and the past full year of activity under the new arrangements for dealing with standards, conduct and ethics.

The Monitoring Officer provided a brief overview of the current arrangements at the Council and highlighted that the Audit Committee's review of the Constitution did not propose any changes in this area. The Council was informed that more standards training would be offered following the 2015 election.

The Council discussed the case of a Selby District Councillor not fully complying with the sanctions imposed by the Council in respect of a conduct matter from April 2013. The Council asked the Monitoring Officer to report back to a future Council meeting with a report outlining what further action could be considered in such circumstances.

#### **Resolved:**

- i. To receive and note the Standards Annual Report 2013/14 attached at Appendix 1.**
- ii. To ask the Monitoring Officer to report further on any options available where a Councillor found in breach of the Code of Conduct does not comply fully with the resolutions of Council.**

#### **47. Report of the Local Government Ombudsman**

The Leader of the Council presented a further report from the Ombudsman. This followed a decision in December 2013 from the Council not to implement the Ombudsman's original recommended remedy arising from the way in which it dealt with a planning application.

The Leader of the Council set out the background to the case and reminded Council of the previous Ombudsman's report. The Ombudsman had now given the matter further consideration and submitted another report reaffirming her view that the original conclusions were sound and that the remedy proposed was appropriate.

At the conclusion of the debate six councillors requested a recorded vote in accordance with the Council's constitution. The vote was recorded as below:

For the Proposal (22)

Councillors; Mrs E Casling, J Cattnach, I Chilvers, M Crane, J Deans, M Dyson, K Ellis, W Inness, Mrs G Ivey, M Jordan, C Lunn, Mrs C Mackman, J Mackman, J McCartney, Mrs K McSherry, C Metcalfe, R Musgrave, I Nutt, C Pearson, D Peart, I Reynolds and R Sweeting.

Against the Proposal (9)

Councillors; J Crawford, Mrs D Davies, Mrs S Duckett, B Marshall, Mrs M McCartney, R Packham, R Price, S Shaw-Wright and J Thurlow

None.

Abstentions (0)

The proposal was carried and it was.

**Resolved:**

- i. **To receive and note the report to Council and the conclusion and recommendations set out in the Local Government Ombudsman's Further Report.**
- ii. **To welcome the Ombudsman's recognition that "in this case we have no reason to criticise the decision" reached by the Planning Officer.**
- iii. **To inform the LGO that whilst the Council continues to offer to apologise to the complainants and pay £250 in compensation for time and trouble in making the complaint, it cannot agree to the full proposed remedy because it holds to the view that it is unreasonable for the reasons set out in the Report.**

**48. Urgent Action**

The Chief Executive reported that she had not taken any urgent action since the last meeting of Council.

**49. Sealing of Documents**

To authorise the sealing of any documents necessary to action decisions of this Council Meeting, or any of its Committees and Boards for which delegated authority is not already in existence.

**Resolved:**

**To grant authority for the signing of, or the Common Seal of the Council being affixed to, any documents necessary to give effect to any resolutions hereby approved.**

The meeting closed at 7.25pm.



**Cllr Mark Crane**

**Leader of the Council**

**Report to Council**

**Trans Pennine Rail Electrification**

Council will be aware of plans to extend the electrification of the Trans Pennine route to Selby. Network Rail are now at the engineering design stage which will have an impact on level crossings and bridges through Selby District.

Network Rail has a series of meetings planned through August, September and October with Town and Parish Councils and there will be a briefing for District and County Councillors on 25 September 2014 at the Civic Centre. I am keen to try to keep disruption to transport routes through Selby to an absolute minimum but also to ensure that Network Rail's proposals achieve the maximum benefit for the district.

These discussions are at an early stage and I hope Councillors with wards along the railway route, and anyone else who is interested, will be able to attend the briefing on 25 September when we will have an opportunity to listen to Network Rail's plans and ask questions.

**Local Government Yorkshire and the Humber**

I chaired a meeting on 14 July which considered a number of options for a new organisational model for LGYH. Member Councils are keen to scale down the organisation but preserve the essential benefits of greater collaboration and co-ordination. The new structure would be hosted by one of the member Councils and will co-ordinate Leaders' collaboration on economic growth issues and support Chief Executives' collaboration on a range of wider issues. Consultation on the details is now on-going and a decision is expected at our next meeting in October.

Scrutiny Committee 23 September

I attended Scrutiny Committee on 23 September to present the Access Selby 1st Interim Key Performance Indicator Progress Report: April 2014 – June 2014. I was pleased to report that the Access Selby performance indicators have so far exceeded target on 15 of the 20 performance indicators and there were no red traffic lights.

**Olympia Park**

Since we last met as a Council I am delighted to report that over £16m has been made available to pump into the new Olympia Park development at Barlby.

The District Council, private investors at the site and colleagues from both the North Yorkshire & East Riding and the Leeds City Region Local Enterprise Partnerships and the Homes and Communities Agency worked together to help secure the government Growth Deal and other funding for this scheme, because of its importance to the local economy.

£8m of funding has been secured through the North Yorkshire & East Riding Local Enterprise Partnership. £3.46m of funding comes via the Homes and Communities Agency and a further £4.8m comes from the Leeds City Region Growing Places Fund.

This shows a renewed level of confidence in the future of Selby district. Olympia Park opens up fantastic new opportunities for business growth and the homes people want and need and I am sure that all Councillors will welcome this news.

The District Council is continuing its facilitation role at Olympia Park by hosting monthly meetings of the funding partners to ensure a common approach to due diligence and project monitoring. This allows the developer to deal with one key contact and reduces bureaucracy and duplication. Meetings are planned on a monthly basis until contracts are exchanged and work commences on site.

### **Better Together**

Our collaboration with North Yorkshire County Council has been recognised by the Government and I am pleased to report that we have received £138k Transformation Challenge Award funding to support our shared Customer Relationship Management system and new web-site.

We have also been asked to submit a bid for circa £550k towards an innovative project aimed at joining up frontline services in partnership with public and voluntary sector partners. The work involves fundamental service re-design to achieve fully integrated end-to-end services for citizens. The project aims to better understand customer needs, helping to reduce demand in those areas where self-service is most appropriate and allowing us target more focussed resources where they are needed most.

### **Review of Council Priorities**

All Councillors will have had an opportunity to participate in the series of member sessions held to discuss the refresh of the Council's priorities. I am very grateful to all Councillors who took the opportunity to contribute to setting the future focus of the Council.

Mark Crane

**Cllr Gillian Ivey**

**Executive Member for Partnerships and External Relations**

**Report to Council**

### **1) Reviewing Representation on Outside Bodies**

I reported to Council in September that work was underway to review our representation on Outside Bodies. As part of that review a short survey questionnaire has been sent to all Councillors, if you haven't done so already could I urge every Councillor that represents this Council on an outside body to have a look at the survey and let us have their opinions.

### **2) Selby Leisure Centre – Progress**

A Topping-Out Ceremony was held on the 1<sup>st</sup> October at the new Selby Leisure Centre to mark the fact that the building has reached its highest point. I discovered that the origins of Topping-Out Ceremonies are from Scandinavia where, traditionally, a tree or branch is placed on the uppermost part of a building to ward off the spirits disturbed by the construction. In our case a yew tree sprig was hoist to the top of the new Centre. I am pleased to tell Councillors that the building remains on programme, on budget and, if the winter is kind to us, will open on time, just four months from now.

I am also pleased to report that the Council has now received all of the grant money provided by Sport England, less a small retention sum which is only paid over on completion.

Councillors may also have seen that a planning application will be considered at Planning Committee on 8 October seeking amendments to the landscaping and car parking arrangements at the Scott Road site. These proposals are intended to accommodate potential development of additional facilities next door to the Selby Leisure Centre. No decisions have been taken yet on whether to go ahead with any additional development but it was sensible and cost effective to make some changes to the original plans for the site to help make further future development possible.

### **3) Community Access to Health and Recreation**

Councillors will be aware that funding included in the budget for Abbey Leisure Centre was diverted, following the fire, and invested in a range of alternatives intended to take leisure activities out into the wider community. A number of initiatives – “Pitch-up and Play Football”; “Move it and Lose it” adult fitness and weight management; “Active Healthy Children” a children fitness and weight management programmes delivered at every primary school in the District; increased community sport development; volunteer sports leader recruitment; coach education training and a strong network of sports and activity clubs supported and promoted through a new directory and website are all part of the programme. And the results have been excellent.

The Sport England Active People Survey shows that since 2012 the number of adults participating in sport has risen from 23% to 30% and in the same period the percentage of people taking part in at least 30 minutes of sport each week has risen from 31% to 40%.

We always intended to use these initiatives to open discussions with Public Health and NHS colleagues to see if some of the schemes we were able to support on a temporary basis – while we had no swimming pool – could be kept going in some form or other.

The Director of Public Health's Report for 2014 was published last month and I am pleased that it recognises the good work which the Council commissioned. The report shows the impact the 'Move it and Lose it' programme has made and features a case study on the Selby Employer Sponsored Volunteering Scheme.

On our behalf, WLCT are looking to replicate elements of the Move it and Lose it pilot programme on a larger scale. WLCT and the Council have been working with colleagues at North Yorkshire Public Health to secure funding for the next two years for a Lifestyle Weight Management service in the District. This and other projects are also being discussed with Vale of York CCG with a view to providing additional services in Spring 2015

#### **4) Strategic Housing Board**

As the Board now works within the LEP structure, membership has recently been increased to include representatives from East Yorkshire Council, Registered Providers and House Builders, who join North Yorkshire County Council, the seven district councils, York Council and the National Parks Authority.

I chaired the meeting on September 22<sup>nd</sup> which heard an update on the outcomes of the YNY&ER Growth Deal and as members will already be aware the Olympia Park Project was well supported. Members discussed the challenges around the delivery of the Growth Deal, some of which were around the supply of allocated land, capacity of the industry to deliver (specifically skills, materials and finance) and availability/use of New Homes Bonus. It was agreed to explore opportunities to engage with the house building industry, in which Selby has already taken a lead.

Draft themes and priorities for a new Regional Housing Strategy 2015-21 were discussed and the draft document will be presented at the next meeting in December. This single regional housing strategy will look at overall housing delivery in addition to affordable housing. Each Local Authority will need to have their own Homelessness Policy.

The Board agreed in principle to support the Rural Housing Enabler Network for a further three years. All the Local Authorities and Registered Providers will contribute to the cost and Selby will continue to have an RHE for 2.5 days per week. East Riding expressed interest in joining the scheme.

#### **5) Police and Crime Panel**

A meeting of the Police and Crime Panel is due to take place on 9 October 2014.

#### **6) Trans Pennine Trail Board**

I represent the Council on the Trans Pennine Trail members group and at the Annual Meeting held recently I was invited to become Vice-Chair. I hope to be able to continue to make a useful contribution to the work of the TPT Board and help ensure that it plays an active and supportive role in projects and events in the District

Gillian Ivey





## **Councillor Cliff Lunn**

### **Executive Member for Finance and Resources**

#### **Report to Council on 14<sup>th</sup> October 2014**

##### **Executive Reports**

Our September meeting considered the draft Medium Term Financial Strategy in advance of the forthcoming budget round. I am pleased to report that our finances continue to be well managed but further challenges lie ahead as austerity is expected to continue for some time to come. The strategy sets the framework for the budget and includes the working assumptions we will use to formulate our spending, savings, growth and reserve proposals. Following consideration by Policy Review Committee the final draft is later on tonight's agenda for approval. I would also like to highlight the proposals for parish grant which are to apply the approach that we used this year which is to reduce the grant by the equivalent reduction in the Council's central government funding – an approach supported by Policy Review.

The first quarter budget exceptions report highlighted a significant surplus on the General Fund most of which relates to a prior year adjustment for NNDR income – as such it is proposed that this income will be transferred to the Business Rates Equalisation reserve to help manage the on-going risks with the Business Rates Retention system.

Work is progressing against savings targets and the capital programme is currently on track to deliver.

The treasury management report continued in the same vein as the previous year with investment returns impacted by low interest rates. Preparations are underway for the NYCC sweeping arrangements I reported at the last Council.

The Executive also considered the draft Housing Revenue Account Business Plan prior to comments from Policy Review and public consultation. The plan is a mid-term refresh and the main thrust remains unchanged from the approved version. The Business Plan incorporates the changes made to our Tenancy Policy 2013, which sets out our plans to offer flexible fixed term tenancies of 5 or 2 years to certain applicants, whilst others will still be entitled to secure lifetime tenancies.

We await analysis of the results of the housing stock condition survey and are ready to update the financial forecasts should this be necessary in advance of the final plan coming forward for approval.

##### **Programme for Growth**

Work is progressing on the Housing Trust project with Selby and District Housing Trust currently evaluating on the tenders for the two pilots in Tadcaster. We remain on track to complete the necessary legal agreements by the end of October.

The financial strategy proposes the approach to the Programme going forward using some of the New Homes Bonus each year. Proposals for the allocation of resources to any Programme beyond 2014/15 will form part of the budget.

### **Other issues**

The members' ICT pilot is progressing well and the group is getting more familiar with using the devices for meetings as well as e-mails. We are meeting regularly and 'swapping notes' with support from officers.

Cliff Lunn



**Councillor John Mackman**

**Executive Member for Place Shaping**

**Report to Council on 14 October 2014**

This report covers the period from the Council meeting on 2 September 2014. During this period I have attended Executive/Executive Briefing meetings, Selby Internal Drainage Board, North Yorkshire and York Spatial Planning and Transport Board, Leeds City Region Planning Portfolios Board, CEF and local Parish Council meetings as and when required.

Reporting on key items:

**1) The Local Plan Core Strategy (CS)**

As Council is aware the Selby District Core Strategy Local Plan was formally adopted by the Council on 22 October 2013.

Subsequently, a High Court legal challenge was made against the adoption of the Core Strategy by Samuel Smith's Old Brewery, Tadcaster (SSOBT) on a number of grounds including "Duty to Cooperate" which came into force whilst the Strategy was being examined at EIP.

The legal challenge by SSOBT was heard in the High Court in Leeds in July 2014. At the time of writing we have not yet received the High Court Judgement.

**2) Housing Monitoring and Delivery**

Housing monitoring figures indicate that there is a sustained shortfall in housing delivery within the district and the adopted housing target of 450 dwellings per annum is not being achieved. In short the Council does not have a 5 year housing land supply.

Officers are actively working on a programme of action to address this issue. This includes focusing policy resources into a master plan assessment of potential development sites across the district which could contribute to housing delivery.

The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development and officers are considering the approach to assessing planning applications within this framework. This has included a session with Planning Committee by the Planning Advisory Service on 10 September and a further developers forum is programmed for October following from the success of the one held in May.

The Executive will consider the 5 year housing land supply position in December alongside the annual Authorities Monitoring Report.

**3) The Sites and Policies Local Plan (SAPP)**

The Sites and Policies Plan (SAPP) is an important document which provides a further level of detail to support the Council's Core Strategy. In November the Executive will consider a set of key consultation documents. These documents will set out the issues in broad terms and will pose a series of questions. The consultation documents will not contain any decisions or detailed

proposals but the consultation will help inform later stages where options and preferences will be narrowed.

Subject to a positive Core Strategy judgement and following further consideration by the Executive the consultation draft SAPP will be submitted to an Extraordinary meeting of Council for approval.

#### **4) Duty to Cooperate (DTC)**

The Localism Act, 2011, and the NPPF (2012) introduced a duty to cooperate with other local Planning Authorities and prescribed public bodies and other stakeholders when preparing Development Plan documents.

The DTC is a continuous process of engagement on Strategic Cross Boundary issues through the Plan Preparation process. Accordingly in addition to preparing the draft SAPP for public consultation a separate engagement plan is being prepared and ultimately a DTC statement will set out how the Council has involved other bodies in preparation of the plan.

Officers continue to attend joint meetings with our adjoining local authorities and other bodies in the Leeds City Region and North Yorkshire and York as well as the on-going work we do with the NYCC. I attend the Planning Portfolios Board in the Leeds City Region which specifically addresses duty to cooperate issues in the LCR.

The LCR has approved a DTC Statement which will support the local plan work being undertaken by constituent authorities and provide evidence of DTC at the EIP.

#### **5) Programme for Growth**

##### **5.1 Housing Trust**

Work is nearing completion on the formal application for the Trust's registration as a Registered Provider with the HCA (Homes and Communities Agency), and this will be submitted shortly. The HCA will consider whether the Trust meets the statutory eligibility conditions before a final decision is reached.

A draft Tenancy Policy is being finalised together with proposals for an Allocation Policy, and these will be discussed at the Trust's next Board meeting in October.

The two pilot schemes at 43, Kirkgate and St Joseph's Street Tadcaster are both subject to contract as the Trust and Council legal teams progress the legal documentation. Tenders have been returned for both schemes and are in the process of being evaluated by the Housing Trust team with support from the North Yorkshire Procurement Partnership.

Subject to agreement of the asset transfer, loans and partnering agreements it is expected that work will commence on both sites by the end of 2014 with completions in 2015.

##### **5.2 Gateways**

The work on the makeovers of the two key by-pass roundabouts will commence in October with the work being completed on site for the end of November. A communications and publicity plan is being developed; this will include a series of 'before and after' photographs and a launch event being held in December which will tell the story of the project.

#### **6) Potential Sites for the Travelling Community**

The Executive continues to review all options for Traveller sites as the Authority remains exposed to unauthorised developments and failing to meet its statutory obligations in terms of establishing and maintaining a 5-year supply of pitches.

The Secretary of State has still not yet ruled on the temporary permission at Byram-cum-Sutton.

The appeal on the Long Drax site has been postponed until January.

The planning application in the system for the site at Hillcrest (old A1 site) is still to be determined, but the application on the A1041 towards Camblesforth called Brick Farm Cottage has now been withdrawn.

The Secretary of State has recently ruled on the temporary permission at Hillam and has refused both further temporary or permanent permission.

Policy & Strategy Officers are considering how to approach traveller pitch provision in the forthcoming SAPP, including whether to advance the 2013 TNA recommendations for Areas of Search and specific criteria-based policies for determining applications.

On the 17<sup>th</sup> September the Government issued a new consultation on Gypsy and Traveller's entitled *Consultation: planning and travellers*. The consultation highlights proposed changes to national planning policy and planning policy for traveller sites to ensure that the planning system applies fairly and equally to both the settled community and travellers. The consultation closes on the 23<sup>rd</sup> November 2014, and once the Government has considered the responses they may issue new planning guidance with changes to Planning Policy for Traveller Sites. Any changes proposed will have an impact on our work on the SAPP we will need to take them into account in our consultation process.

## **7) Proposed Flood Risk Supplementary Planning Document**

The Council's approach to flood risk in terms of determining planning applications has been reviewed to bring it up to date in line with the Core Strategy. It is proposed through a new draft consultation Supplementary Planning Document (SPD) that planning applications will still need to sequentially search for sites in the lowest flood zones, but that the area of search be reduced.

For example, an application in Selby Town would need only look elsewhere in Selby town, and would not need to consider sites all across the District. This follows the Core Strategy's settlement hierarchy to steer development to the most sustainable places overall.

With the support of The Environment Agency, the proposed SPD balances flood risk with other sustainability factors such as access to services and facilities, public transport etc., rather than treating flood risk as an absolute constraint.

Subject to approval public consultation will be undertaken on the proposed SPD before it is adopted for use in planning decision making.

**John Mackman**  
**Executive Member**



**Councillor Chris Metcalfe**

**Executive Member for Communities**

**Report to Council on 14 October 2014**

### **Tough Stuff/Retail Board Update**

The Tough Stuff Board is taking forward work to develop a Retail and Car Parking Strategy for Tadcaster. As part of this, an analysis of the usage of the Central Area Car Park will be undertaken in the coming weeks to show patterns of length of stay of vehicles and the availability of spaces for shoppers. The work will also use the findings of the Retail Research Study undertaken in 2013 to help it shape the priorities in the strategy. The key findings included the need to improve the physical environment of the town and the demand for a better offer of non-food shops.

As a result of the research study, the Tough Stuff Board has commissioned a series of environmental improvements to the town centre. A number of new street name plates will be installed in the coming weeks to replace damaged and worn signs and work on the refurbishment, replacement and standardisation of litter bins in Tadcaster is underway. This has been done in partnership with the Tadcaster and Villages Community Engagement Forum (T&V CEF) Partnership Board, which has provided funding for the new bins, and the Community Payback scheme, who are undertaking the refurbishment work. The Board is now working with NYCC on new traffic lights on Bridge Street and the painting of lamp posts. New signage will shortly be installed at the entrance and at the High Street directing visitors to the Tadcaster Central Area Car Park. The target date for the advertising planning decision on information boards and finger post signage is 7 October.

The Tadcaster Riverside Project has now commenced and the council has been working closely with Tadcaster Town Council on the detailed delivery plan. An early stage in the works will be a community archaeological dig at the site of the former Norman castle.

The council is taking forward the refurbishment of Tadcaster Bus Station in partnership with NYCC. This will improve the structure and the adjoining block paved standing area used by waiting buses. NYCC will project manage the refurbishment and contribute a substantial sum towards the work.

The Tough Stuff Board is working with the Tadcaster and Rural Community Interest Company on a number of initiatives for the area including a Gateways project to improve the key entrances to the town. The board is also working with WLCT to identify

opportunities for taking forward the sport and leisure offer in the town and surrounding villages.

### **STEP/Retail/Growing Enterprise Update**

The Selby Town Enterprise Partnership (or STEP) has agreed six project business cases to take forward the priorities in the strategy. The work will include work on the town's unique selling point (USP), an analysis of the retail mix, community-led master-planning, a public realm and gateways project, work on skills development and a project on the evening and night-time economy.

In Sherburn, Selby District Council officers continue to work with the Heart of the Village Centre group to develop a project which will deliver key improvements for the retail area in the village centre. Work is underway on collating the results of community consultations which have been undertaken in the town and analysing the community impact of any changes to the area.

The Growing Enterprise programme of support to new and existing businesses was considered by the Tough Stuff Board on 6 October. The programme will bring together a varied package of support to new and existing businesses including opportunities for incubation units, pop-ups, mentoring and other support.

### **Empty Homes Strategy Update**

Community Officers are still working on a list of around 100 properties to validate and determine the ownership and are engaging with a number of owners. Systems have been set up to support property owners to bring the properties back to occupation; where negotiation fails, enforcement action will be used. The loans service has now been set up. So far in 2014, a total of eight properties have been returned into habitable use.

### **The Future of the CEFs**

Following on from the success of the special CEF event in June, I am now working with Rose Norris and colleagues on developing proposals for the CEFs and the council's future model for working with the third sector. The CEFs have made significant strides as a way of enabling community leadership on local projects and we want to ensure that the council's future arrangements enable the CEFs to make further progress. A new design group held its inaugural meeting on 6 October to agree a terms of reference and how they will work together to develop a new outcomes framework for the management and support to the CEFs.

All five CEFs have produced annual reports for 2013-14 which outline their key achievements over the year and the outcomes which have been delivered as a result. If you would like a copy of any of the reports, please contact Rose Norris and she will send you one. The CEFs have all been working on developing new and exciting ways of engaging with communities; this includes the recent BIG Chat in the Eastern Area and the September BIG 60 Dinner in the Southern area.

**Chris Metcalfe**



**Councillor Mike Jordan – Chair of Policy Review Committee**

**Policy Review Committee Update – Council 14 October 2014**

**Policy Review Committee – 16<sup>th</sup> September 2014**

The committee heard that a meeting between the Chairs of Policy Review and Scrutiny had taken place after discussions on the Constitutional Review had raised questions on the feasibility of merging the two committees. Both Chairs agreed to monitor the Review and any submissions to Council on the matter.

Councillor Lunn attended for the following two items:

The committee considered and discussed the update on the Medium Term Financial Strategy having been asked by the Executive to scrutinise the papers and forward any comments back to the Executive. The Committee discussed and were supportive of the proposals for the payment of grant to parish and town councils in relation to Council Tax Support.

The committee also endorsed the Council's Draft Housing Revenue Account (HRA) Business Plan Refresh 2014 that had been referred to the committee by the Executive for comment prior to the document going out for consultation.

As questions at the last full Council were raised on Section 106 agreements the committee agreed to place the matter on the Work Programme. The Committee chose to implement the provisional meeting of the reserved for 18<sup>th</sup> November 2014 to discuss the item. I will speak to the Solicitor to discuss the scope of the Review before the meeting.

Mike Jordan  
Chair, Policy Review Committee





## **Councillor Jack Crawford – Chair of Scrutiny Committee**

### **Scrutiny Committee Update – Council 14 October 2014**

The Scrutiny Committee has met once since the last report to Council on 2 September 2014.

#### **23 September 2014**

##### **North Yorkshire Fire and Rescue Service**

Tony Walker, Dave Dryburgh and Colin Hunter from North Yorkshire Fire and Rescue Service were present to provide an update on the position of North Yorkshire Fire and Rescue services within the district.

The Committee were informed that there would be a review of North Yorkshire Fire and Rescue Service which would look at all aspects of the brigade including how services were delivered and staff.

Discussion took place on the fire service attending false calls from business premises with their being the possibility of introducing a charge for such an attendance in the future. The Committee were also informed of the agreement between fire services from neighbouring authorities on attending fires in the district.

It was agreed that there would be a further update at the next meeting in January 2015 concerning the review.

##### **Access Selby 1<sup>st</sup> Interim Key Performance Indicator Progress Report: April 2014 to June 2014**

Councillor Mark Crane, Leader of the Council presented the Access Selby first Interim Key Performance Indicator Progress Report.

Concern was raised at the robustness of the performance indicator concerning customer satisfaction. It was felt more evidence was needed with regard to how the data was collected as the figures did not match comments made by some residents and tenants. Concern was also raised regarding the robustness of the street cleanliness figures. The Leader of the Council stated that the Executive had asked for more robust ways to gather people's views for both of these performance indicators.

The Committee agreed to have a discussion regarding the performance indicator for customer satisfaction at its next meeting.

##### **Access Selby Service Provision – Debt Control**

Helen McNeil, Lead Officer, Debt Control and Enforcement was present to provide information on the services offered by the Debt Control team.

The Committee were provided with an overview of the Debt Control service and how it worked in conjunction with other services to support residents if they were in difficulty with payments.

#### Community Infrastructure Levy - Update

Ruth Lucas, Lead Officer, Policy was present to provide an update concerning the progress of the Community Infrastructure Levy (CIL).

The Committee were informed that the consultation on the amended charging levy has recently closed and 23 responses had been received. The consultation responses had been sent to the appointed Consultants who would analyse all the responses. The Committee were informed that subject to any major changes, the CIL would be submitted to the examination in public stage in December and subject to approval from the examiner, it could be introduced in April next year. It was explained that if there were any changes as a result of the consultation, then a further consultation would have to be carried out.

#### Access Selby Service Provision – Community Support

The Lead Officer, Community Support Teams was present to provide information of the services offered by the Community Support Teams.

The Committee were provided with an overview of the community support service area and the three separate teams – Customer Services, Community Officers and Housing Support.

It was explained that the Customer Services team had met their targets for 2013/14 however had fallen slightly short currently in 2014/15. The Committee were informed that this was due the installation of a new phone system that had also taken away the ability to transfer calls to the Civic Centre in times of high demand.

#### Waste and Recycling Task and Finish Group

The Committee were informed of the current progress concerning the trial of recycling bags instead of boxes as per the Scrutiny Task and Finish Group recommendations that had been accepted by the Executive. It was explained that a procurement exercise had been conducted with regard to the supplier of the bags and a final decision on the manufacturer would be taken by the end of September. There would then be a 10 to 12 week manufacturing and delivery period. The six week trial would then commence towards the end of February 2015 which would avoid the post-Christmas recycling potentially distorting the figures.

#### Community Support Team Task and Finish Group

The Task and Finish Group are still undertaking this review at the current time. A meeting was held on 2 September where the Task and Finish Group requested officers to provide some further information. Another meeting of the group will be held in due course.

Jack Crawford  
Chair, Scrutiny Committee



## **Councillor Chris Pearson – Chair of Audit Committee**

### **Audit Committee Update to Full Council 14<sup>th</sup> October 2014**

Since the last full council the Audit committee have met once.

24<sup>th</sup> September 2014

Cllr Mrs Mackman took the Chair as I was on County Council business.

The committee received a report from the Council's Solicitor setting out the findings of the committee's Review of the Constitution, which also took into account the legislated changes introduced by the Openness in Local Government Bodies Regulations 2014. The report received the committee's approval and will now go to the Executive on 2 October and full Council on 14 October for ratification.

The Solicitor also provided a verbal update on progress made to improve the Council's arrangements for Information Governance – with strengthened policies and procedures in place and training provided to officers and councillors. An annual report will be considered at the Committee's January meeting.

The committee considered and discussed the 2013/14 Annual Governance Statement (AGS) which was presented by the Executive Director as s151 Officer. The AGS provides assurance that the authority has a sound system of internal control – two areas for improvement were identified relating to Information Governance and the completion of reconciliations. The report received the committee's approval and progress on the areas for improvement will be monitored over the coming months.

The committee reviewed the Council's statutory Statement of Accounts for the year ended March 2014 following completion of the audit. A number of amendments had been incorporated since the draft accounts had been completed and an unqualified audit opinion was anticipated. The report received the committee's approval.

The committee went on to receive the Audit Completion Report from the Council's external auditors, Mazars, presented by Cameron Waddell. The committee noted that an unqualified conclusion had been drawn on the Council's arrangements to secure value for money – with significant changes made in recent years, to secure future viability. The report was accepted.

The committee finally considered and discussed the Internal Audit Progress Report for 2014/15 which was presented by Phil Jeffries of Veritau who reported on the progress of the current audits and also on the status of the follow up actions of the 2013/14 audits that required action. The report received the committee's approval.

Chris Pearson  
Chair, Audit Committee



## **Public Session**

**Report Reference Number C/14/8**

**Agenda Item No: 13**

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**To: Council**  
**Date: 14 October 2014**  
**Author: Karen Iveson, Executive Director (s151 Officer)**  
**Lead Officer: Karen Iveson, Executive Director (s151 Officer)**  
**Executive Member: Councillor Cliff Lunn**

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**Title: MEDIUM TERM FINANCIAL STRATEGY UPDATE**

### **Summary:**

This report presents an update to the revised Medium Term Financial Strategy (MTFS) approved by Council in December 2013. Taking into account anticipated cuts to public sector funding a target net revenue budget of £10.6m is proposed for the forthcoming budget round.

Anticipated cuts to Revenue Support Grant will mean that further savings are required and a headline level of £1.5m is proposed for the next 3 years (this includes £450k already part of Access Selby's budget and savings plan).

There remains the potential for additional Business Rates income in the future but anticipated business closures over the next 2 years mean that it is likely that we will need to rely on our Business Rates Equalisation Reserve to meet our rates income target.

Subject to the continuation of New Homes Bonus and achievement of savings, resources of up to £880k p.a. could be diverted to a new Programme for Growth to support delivery of the refreshed Corporate Plan from 2015/16.

### **Recommendations:**

**It is recommended that the update to the Medium Term Financial Strategy be approved.**

## **Reasons for recommendation**

To set the framework for the 2015/16 budget and 2015 – 2017/18 Medium Term Financial Plan.

### **1. Introduction and background**

- 1.1 The Council's latest Medium Term Financial Strategy was approved by full Council in December 2013 – this report presents an update to the financial strategy following scrutiny by the Policy Review Committee.

### **2. The Report**

- 2.1 The attached update paper models three scenarios for the Council's General Fund revenue budget over the next 10 years. The mid-range forecast is the scenario that is proposed as the basis for the forthcoming budget round.
- 2.2 The modelled budget assumes continuation of grant for Parish Councils to support them with the reductions in Council Tax Base as a result of changes to Council Tax Support.
- 2.3 Assuming a further cut of 30% on Government funding and Council Tax increases of 2% for the next 3 years, a budget deficit of £495k is forecast for 2015/16, a deficit of £412k for 2016/17 and a deficit of £991k for 2017/18. Taking into account Access Selby's current savings target an overall savings target of £1.5m is proposed for the coming 3 years.
- 2.4 Whilst the future of New Homes Bonus remains in doubt, savings at this level would mean that £880k p.a. could continue to be diverted to any new Programme for Growth but clearly this is highly dependent on achieving the savings targets set.
- 2.5 There also remains the potential for additional Business Rates income but in the short term we expect that income to be short of target due to some anticipated significant business closures. In the future excess receipts could be used to extend the 'Programme for Growth' or reduce our savings requirement. Any such decisions would need to be taken in light of the overall funding risk at that time.
- 2.6 A review of earmarked reserves has also been undertaken and there is the opportunity to rationalise some reserves and redirect resources to priority areas.

### **3. Legal/Financial Controls and other Policy matters**

#### **3.1 Legal Issues**

None as a direct result of this report.

#### **3.2 Financial Issues**

3.2.1 Based on the updated key assumptions within the paper and a mid-range cut to Government grant/business rates, the target net revenue budget for 2015/16 is £10.6m.

3.2.2 Taking into account the forecast gap between income and expenditure plus the savings target already set for Access Selby an overall target of £1.5m is proposed for the coming 3 years.

### **4. Conclusion**

4.1 There remains significant risk and uncertainty to public sector funding. The mid-case forecast suggests a funding gap of nearly £1m by 2017/18 which when added to savings already planned means that total savings of £1.5m are needed over the next 3 years.

4.2 Subject to the assumptions, there could be resources available to divert to the 'Programme for Growth' from 2015/16 onwards but this is dependent upon achieving the savings required to bridge our funding gap. Any decision to extend the programme will need to be taken in light of NHB and savings achieved.

### **5. Background Documents**

Approved MTFS December 2013

#### **Appendices**

Appendix A - Medium Term Financial Strategy Update 2014

#### **Contact Details**

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Executive Director (s151)  
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## Selby District Council

### Medium Term Financial Strategy Update September 2014

#### 1. Introduction and Background

- 1.1 This paper presents an update to the revised Medium Term Financial Strategy approved by Council in December 2013. It considers the budget pressures and issues facing the Council over the next 3 years and provides the framework for the forthcoming budget round.
- 1.2 The strategic context for the financial strategy remains unchanged and the pressure on Local Government finance continues. Austerity is expected to be with us for some time to come and we await the next Spending Review in 2015 following the general election.
- 1.3 Over the course of 2014/15 we will work with Councillors to refresh the Corporate Plan and with it the Council's priorities for the coming 5 years. The financial strategy aims to deliver financial sustainability and resilience for the Council in delivering its objectives and secure the resources necessary to deliver the Corporate Plan, in spite of the additional funding cuts we are facing.
- 1.4 To support this paper three scenarios have been modelled and are attached at **Appendix A**. The mid-case scenario is proposed as the framework for the forthcoming budget round.

#### 2 Update on financial assumptions

##### Interest Rates

- 2.1 The bank base rate remains at 0.5% with a rise now forecasted in 2015. The Bank rate is projected to increase slowly and gradually thereafter, reaching 2.00% by March 2017. The approved strategy assumes investment rates will rise to 2.5% by 2016/17 and therefore returns are likely to be less than estimated in the short term. Loans to Selby and District Housing Trust will provide some mitigation but it would be prudent to reduce our forecasts.
- 2.2 Current returns are below 1% but the budget assumes 1.5% for 2014/15 and 1.75% for 2015/16. The MTFs has been updated to reflect a 0.5% reduction to these assumptions in 2015/16.
- 2.3 The approved strategy includes provision for a £300k cap on the amount of investment interest used to support the revenue budget and as a result of the on-going low rates it is anticipated that this will not be reached in the next 2 years.

## Inflation

- 2.4 The approved strategy took a cautious stance on inflation projections with 3% included for all years – no changes are proposed at this stage.

## Government Grants

- 2.5 This element of funding has seen the most significant changes following the localisation of Business Rates and Council Tax Support.
- 2.6 The 2014/15 Local Government Finance Settlement included a provisional settlement for 2015/16 – the table below summarises the settlement for Selby:

<b>Local Government Finance Settlement February 2014</b>	<b>Actual 2014/15 £000's</b>	<b>Provisional 2015/16 £000's</b>
Revenue Support Grant (RSG)	2,520	1,734
Business Rates Baseline Funding (BRBF)	2,190	2,250
<b>Settlement Funding Assessment (SFA)</b>	<b>4,710</b>	<b>3,984</b>

- 2.7 The Chancellor's 'Budget 2013' included a further 1% cut to Local Government resources in 2014/15 (in addition to those previously planned) and the 'Spending Review 2013' announced a further headline 10% cut in 2015/16. Beyond that there is speculation about further cuts and the 2015 Spending Review is expected to deliver further public sector funding cuts. Our current strategy assumes cuts of 24% to 2016/17 and a further 10% is now anticipated for 2017/18.
- 2.8 Excluding Business Rates growth above the Retail Price Index (the index used to inflate the Business Rates Multiplier), the impact of these cuts on the Council's Start-Up Funding Assessment (SUFA) over the next 5 years, is estimated as follows:

	<b>2014/15 £000's</b>	<b>2015/16 £000's</b>	<b>2016/17 £000's</b>	<b>2017/18 £000's</b>	<b>2018/19 £000's</b>	<b>2019/20 £000's</b>
RSG	2,520	1,750	1,308	903	922	939
BRBF	2,190	2,234	2,278	2,324	2,370	2,418
<b>SFA</b>	<b>4,710</b>	<b>3,984</b>	<b>3,586</b>	<b>3,227</b>	<b>3,292</b>	<b>3,357</b>
<b>% Change</b>		<b>-15.4%</b>	<b>-10.0%</b>	<b>-10.0%</b>	<b>2.0%</b>	<b>2.0%</b>
<b>Change in Income</b>		<b>-726</b>	<b>-398</b>	<b>-359</b>	<b>65</b>	<b>65</b>

- 2.9 The current approach to Business Rates Retention income is to set aside gains above our target into the Business Rates Equalisation reserve to off-set potential future losses. In 2013/14 the initial forecast (NNDR1) showed potential Business Rates growth of circa £1.4m



(Selby's share) which would mean additional income to the Council of £700k after the payment of the 50% levy.

- 2.10 However a significant successful appeal by (and subsequent refund to) a major business in the district means that our Business Rates income was below the safety net in 2013/14.
- 2.11 Further expected closures are likely to mean that we will be below the safety net for the foreseeable future and therefore will need to rely on the Business Rates Equalisation Reserve to top up our income to the budgeted target.
- 2.12 Should Business Rates income improve and exceed our target, then there may be opportunity to divert additional resources towards spending priorities such as a future 'Programme for Growth'. However such decisions would need to be taken in light of the overall funding risk at that time.
- 2.13 There may also be the opportunity to pool Business Rates with other authorities in the Leeds City Region (Selby is not part of the North Yorkshire Pool due to the risk associated with the power stations) in order to retain additional receipts locally and it is proposed that further work be undertaken to establish the preferred way forward.

#### New Homes Bonus

- 2.14 We currently anticipate around £2.5m p.a. from New Homes Bonus when the scheme reaches maturity in 2016/17 (year 6 of the scheme).
- 2.15 The approved strategy provides that Years 1 and 2 New Homes Bonus (NHB) is used to support the 'Programme for Growth' up to 2014/15 – i.e. £880k p.a. No decisions have yet been taken on future support for the programme beyond 2014/15 although the current budget assumes that £880k p.a. continues to be transferred to reserves.
- 2.16 The approved MTFs also assumes that receipts above £880k p.a. are used to support the revenue budget, effectively helping to back fill further grant cuts.
- 2.17 The Government's announcement in the 2013 Spending Review that from 2015/16 £400m will be top-sliced from the national NHB pot and be allocated to the LEPs were subsequently shelved although the future of NHB remains in doubt post the general election in 2015.

2.18 Our latest assumptions on NHB<sup>1</sup> are:

	2011/12 £000's	2012/13 £000's	2013/14 £000's	2014/15 £000's	2015/16 £000's	2016/17 £000's	2017/18 £000's
Year 1	445	445	445	445	445	445	
Year 2		435	435	435	435	435	435
Year 3			303	303	303	303	303
Year 4				542	542	542	542
Year 5*					388	388	388
Year 6*						383	383
Year 7*							400
<b>Total</b>	<b>445</b>	<b>880</b>	<b>1,183</b>	<b>1,725</b>	<b>2,113</b>	<b>2,496</b>	<b>2,451</b>

*Allocated to the Programme for Growth as 'one-off' resources*

\* Estimate

2.19 Using the above projections, the NHB resources are assumed to be allocated as follows:

Allocation of NHB	2011/12 £000's	2012/13 £000's	2013/14 £000's	2014/15 £000's	2015/16 £000's	2016/17 £000's	2017/18 £000's
Programme for Growth	445	880	880	880	880	880	880
GF Revenue Budget			303	845	1,233	1,616	1,571
<b>Total NHB</b>	<b>445</b>	<b>880</b>	<b>1,183</b>	<b>1,725</b>	<b>2,113</b>	<b>2,496</b>	<b>2,451</b>

We could of course divert less NHB to the Programme for Growth to help cover more of the funding cuts and to limit the need for savings (at least in the short term). However, driving further efficiency to stay ahead of the funding cuts and redirecting resources to stimulate and enable local economic growth are key priorities for the Council.

#### Special and Specific Grants

2.20 The Council is in receipt of a number of additional grants for 2014/15 which may continue into the future. The Local Government Finance Settlement included:

	2014/15 £000's	2015/16 £000's
Transitional Council Tax Support	0	0
Efficiency Support	0	0
Community Right to Bid	8	0
Community Right to Challenge	9	0
CTS New Burdens	67	0
New Homes Bonus Adjustment	0	0
<b>Total Special and Specific Grants</b>	<b>84</b>	<b>0</b>

<sup>1</sup> Updated following submission of Council Tax Base Return October 2013

- 2.21 These grants are not ring-fenced and have been assumed in the current MTFP - no awards are included in our budget beyond 2014/15 although awards may be included within the 2015/16 settlement.

#### Council Tax

- 2.22 The 2014/15 to 2016/17 MTFP assumes Council Tax rises of 2% to 2016/17 despite the Government's offer of Council Tax Freeze Grant in 2014/15 and 2015/16. If this approach continues into 2017/18 and taking into account a 1% rise in the tax base each year, then Council Tax income forecasts show:

	2014/15	2015/16	2016/17	2017/18
Tax Base	28,089	28,370	28,654	28,941
Band D Charge	£162.00	£165.24	£168.54	£171.91
Council Tax Income	£4,550,123	£4,687,556	£4,829,330	£4,975,247

- 2.23 The mid case scenario assumes that Council Tax is increased by 2% p.a.

#### Council Tax Support Grant for Parishes

- 2.24 In accordance with the approach adopted in the 2014/15 budget, it is assumed that support for parishes will continue. The strategy forecasts the grant amount reducing in line with the reduction in the Council settlement funding (RSG/NNDR).

#### General Balances

- 2.25 In accordance with the current strategy it is assumed that General Fund balances are **not** used to support the revenue budget.
- 2.26 General Balances remain funding of last resort. Currently there is a balance of £1.674m on this fund, which is £174k above the approved minimum working balance of £1.5m. It is proposed that the excess is transferred to the Special Projects Reserve.
- 2.27 Access Selby balances currently total £592k after 3 years successive surpluses and some allocation of resources to projects. This provides a buffer for risk within their operations but also a resource to support future business development. It is proposed that £228k is released from this reserve and pooled with the balance on the Spend to Save Reserve to create a new Business Development Reserve and a further £6k is transferred to the Programme for Growth to take the balance on this reserve down to £250k which is considered a reasonable level for Access Selby's operational risks.

#### Earmarked Reserves

- 2.28 An initial review of major earmarked reserves suggests:

- PFI – the on-going adequacy of this reserve is kept under review in light of interest rates and inflation. Any necessary increases in contributions will form part of the revenue budget and will be funded as a commitment before further service growth is considered.
- Asset Management - £130k p.a. is transferred into this reserve to cover our commitments to maintaining our build assets. However, following the move to the new Civic Centre and the fire at Abbey Leisure Centre this amount needs to be reviewed. Furthermore major works to car parks and industrial units need to be assessed to establish the appropriate annual contributions. This work is being done as part of the Asset Management Strategy and the MTFS will be updated once the results are known.
- ICT Replacement – £150k p.a. General Fund and £50k p.a. HRA contributions are planned to sustain this important reserve, which provides the financial capacity to upgrade and replace our ICT infrastructure, hardware and systems in accordance with our approved ICT Strategy. The use of ICT to support the Council's customer 'self-service' and channel shift agenda means that the financial capacity to invest in modern technologies is crucial to support future services. Fixed contributions allow the smoothing of these irregular costs to avoid peaks and troughs in funding requirements.
- Spend to Save Reserve – the need for on-going savings and efficiencies to achieve the Council's objectives remains a key priority and therefore a reserve, which provides up-front investment for improvements and efficiency initiatives, is a crucial part of the financial strategy. The reserve has in the past, been sustained through in-year revenue savings in excess of set targets and through Council Tax Freeze Grant. It is proposed that the balance on this reserve is pooled with the £228k released Access Selby reserves to create a new £500k Business Development Reserve to support the Council's savings plan – in particular commercialisation and income generation.
- Pension Equalisation – following the last triennial valuation and with it the stabilisation of employers' contribution rates the £600k balance of this reserve as at 31 March 2014 can be released for alternative uses and it is proposed that this be transferred into the Special Projects Reserve to support any future Programme for Growth.

However, changes to the National Insurance Contribution rates with effect from April 2017, for employers with their own pension schemes (currently NIC rates are discounted) will add a further

£120k p.a. to our payroll costs. This coupled with the on-going risk to pensions costs provide good reason to continue to set aside the circa £180k p.a.

- Business Rates Equalisation – this reserve was created in 2012/13 in anticipation of the new rules governing localised Business Rates and the funding risk inherent within the scheme. The current strategy assumes that any excess Business Rates above our baseline are transferred into this reserve to mitigate any funding shortfalls prior to the safety net being reached.

The current approved MTFS established a working balance of 3 years' worth of safety payments to provide some headroom to mitigate the funding risk - this equates to circa £483k.

The fund was established with £300k and then added to with budget surpluses and a prior year income adjustment. The closing balance on the reserve in 2013/14 also includes an accounting adjustment of £3.118m which reflects the accrual of government receipts expected in 2014/15. Ignoring this accounting entry, the available balance on the reserve at 1 April 2014 is £492k. It is anticipated that further receipts will be available to add to this reserve in 2014/15. The latest estimates for Business Rates income suggests that the Council will be at its 'Safety Net' for 2014/15 to 2016/17 and therefore the balance on this reserve needs to be kept under close review.

- Contingency – this reserve provides resources to cover unforeseen issues beyond those that can be accommodated by in year contingency budgets – for example significant planning appeal costs. The reserve is topped-up using year-end surpluses if available and required. A figure of £500k is considered adequate for this purpose and therefore £53k can be released – it is proposed that this be transferred to the Special Projects Reserve.
- Discretionary Rate Relief – this reserve was established with £300k from the 2012/13 General Fund revenue surplus. Future contributions could come from excess Business Rates income subject to availability and prioritising against the 'Programme for Growth'.
- Special Projects Reserve - £880k of New Homes Bonus in 2012/13 – 2014/15 has been used to top up this reserve for the Council's 'Programme for Growth'. Contributions beyond 2014/15 are subject to sufficient NHB and/or Business Rates growth. **It must be stressed that the use of NHB resources to fund growth is wholly dependent upon achieving the revenue savings targets set.** Miscellaneous balance transfers

proposed in this strategy will take the estimated available balance to around £2m by the end of 2014/15.

- 2.29 A forecast of General Fund reserve balances is set out at **Appendix B and further proposals for rationalisation of reserves are contained within the Appendix.**

### 3 Revenue Budget

#### Costs

- 3.1 It is assumed that on average costs will increase in line with inflation.
- 3.2 Whilst cuts in general grant continue, any demand led cost pressures must be contained within the net revenue budget.

#### Income

- 3.3 Income budgets continue to be under pressure although shortfalls are being managed within Access Selby's net cost envelope – being offset by cost savings where necessary. Opportunities for growing income generation remain a priority and proposals for the commercialisation of some services are currently in development. A strategic review of income generation is proposed as part of our savings work.
- 3.4 For the Core, in year 'one-off' savings are expected to backfill any investment interest shortfalls in 2014/15.

#### Savings

- 3.5 The latest versions of the savings action plans are set out at **Appendix C**. Access Selby is making progress against its savings target and has up to £161k headroom within its savings plan (i.e. savings identified in excess of target). This headroom is reliant on achieving the savings identified.
- 3.6 The Core savings target has been achieved for 2014/15 but £253k - £261k is still required for 2015/16 to 2016/17 – the result of anticipated funding cuts by central Government.
- 3.7 In summary the current savings plans show:

<b>Current Savings Summary</b>	<b>2014/15 £000's</b>	<b>2015/16 £000's</b>	<b>2016/17 £000's</b>
Access Selby savings to be delivered	324	372	350
Core savings to be delivered	0	307	316
<b>Total savings still to be delivered to meet targets per current plan</b>	<b>324</b>	<b>679</b>	<b>666</b>

*Targets less green savings*

## 4 Capital Programme

- 4.1 The Council's General Fund Capital Programme contains the 'business as usual' capital projects planned – these include Disabled Facilities Grants (DFGs), ICT replacements and major works to the Council's assets. Expenditure is funded by earmarked reserves set aside for these specific purposes, or in the case of DFGs, through capital receipts from Council House and other small asset sales. The approved programme is attached at **Appendix D**.
- 4.2 There is currently around £0.5m available in usable capital receipts expected over next 3 years to cover the cost of Disabled Facilities Grants. However increases in Council House sales and the Council's agreement with the Government to retain extra receipts to achieve one for one replacement of Council homes, means that our approach to usable capital receipts will need to be reviewed. The HRA Business Plan highlights this issue and further work is planned during 2014/15.
- 4.3 The fire at Abbey Leisure Centre and the resulting temporary gym arrangements mean that receipts from the sale of land at the former Civic Centre site will be delayed to at least 2015. These receipts were originally earmarked for the Programme for Growth although they have been substituted by other resources to mitigate the need for additional borrowing. If they are realised then they will be available for reinvestment in the district or could be used to repay debt if this could achieve a more favourable outcome for the Council.
- 4.4 At this stage there are plans to take out further (internal) prudential borrowing to cover the purchase of a strategic site at Burn. Further borrowing requirements will be kept under review as any new 'Programme for Growth' is developed.

## 5 Programme for Growth

- 5.1 The 'Programme for Growth' is the Council's strategic programme to support delivery of its Corporate Plan. The programme comprises a range of cross cutting projects designed to '**build a stronger Selby district**' by investing in jobs; housing and infrastructure; retail; and the leisure economy. The approved programme is set out at **Appendix E**.
- 5.2 The programme to the end of 2014/15 is currently sustained by New Homes Bonus (£880k p.a.). In summary, the latest programme is set out in the table overleaf:

<b>Programme</b>	<b>Capital £000</b>	<b>Revenue £000</b>
Prog management	0	93
Housing	100	209
Infrastructure	0	85
Jobs	0	118
Retail	0	500
Leisure	7,032	55
Strategic sites	1,750	0
<b>Total</b>	<b>8,882</b>	<b>1,060</b>
<b>Funding</b>		
Special Projects Reserves	3,849	1,133
Insurance Claim ALC	3,000	0
Sport England Grant	2,033	0
<b>Uncommitted Balance</b>	<b>0</b>	<b>73</b>

- 5.3 There currently remains £1m in the strategic sites pot, which subject to commitments during 2014/15, could be available to roll forward into a new Programme for Growth for 2015/16 onwards.
- 5.4 Taking into account the £600k resources released from the Pensions Reserve and the £174k from General Balances plus other miscellaneous balances and then the potential for New Homes Bonus at £880k p.a., resources of around £6.5m could be available to support a programme for the next 5 years. This of course relies heavily on no major changes to the New Homes Bonus scheme and delivery of the savings needed to balance the revenue budget.
- 5.5 There may also be opportunity to extend the programme further through bids for funding from external partners (such as the LEP) and/or should income allow, through excess Business Rates.
- 5.6 Subject to a decision to extend the programme, proposals for resource prioritisation and allocation to projects will be considered as part of the refresh of our Corporate Plan and Budget.



## 6 Revenue Budget Outlook 2015/16 to 2017/18

6.1 The forecasted resources available to support the revenue budget for 2015/16 to 2017/18, are shown in the table below (mid case):

General Fund Revenue Resources	2015/16 £000's	2016/17 £000's	2017/18 £000's
Council Tax	4,688	4,829	4,975
SUFA	3,985	3,586	3,228
NHB	2,113	2,496	2,451
Special and Specific Grants	0	0	0
Collection Fund Surplus	0	0	0
Business Rates Collection Fund Deficit	-164	-164	-164
<b>Total Resources</b>	<b>10,621</b>	<b>10,748</b>	<b>10,490</b>
Core	4,145	3,839	3,954
Access Selby	6,140	6,334	6,524
Investment Interest	(200)	(300)	(300)
Parish Grant	96	86	77
Reserves Transfers (Net)	935	1,201	1,226
<b>Total Net Budget</b>	<b>11,116</b>	<b>11,160</b>	<b>11,481</b>
<b>Surplus/(Deficit)</b>	<b>(495)</b>	<b>(412)</b>	<b>(991)</b>

6.2 Based on the mid-range scenario, the gap between projected expenditure and funding is forecast at £991k by 2017/18 (subject to assumptions and delivery of Access Selby's current savings targets). Taking into account Access Selby's savings targets, the overall position for savings is therefore:

Savings Summary	2015/16 £000's	2016/17 £000's	2017/18 £000's
Access Selby savings planned	372	350	357
Core savings to be delivered	495	412	991
<b>Total savings still to be delivered</b>	<b>867</b>	<b>762</b>	<b>1,348</b>

6.3 Due to the uncertainty of Government grant/Business Rates it is extremely difficult to predict the level of resources we can expect beyond 2015/16. The strategy assumes that NHB is used to help backfill funding cuts but should the cuts be more severe, then additional savings may be needed or more NHB will have to be used to support the budget.

6.4 Based on the current Medium Term Financial Plan (3 year budget) and the assumptions in this paper, revenue resources are expected to fall to £10.5m by 2017/18 which reflects the reducing central funding and means that inflationary and other cost pressures must be managed within the available resources. Over the next 3 years the gap between

our funding and planned spending is expected to rise to nearly £1m and then steadily climb to £1.1m by 2019/20 and to £1.6m by 2024/25.

6.5 Plans for income generation and savings to bridge this gap are developing but we must be ready to cope with more severe cuts should the need arise. Based on the savings needed and the Council's stated approach to savings, the following targets are proposed by 2017/18:

- **Transforming** through ICT and flexible working – **£350k**
- **Growing** resources through trading – **£350k**
- **Commissioning** to achieve efficiencies and reduce demand for public sector services - **£800k**

6.6 Our collaboration with North Yorkshire County Council and other partners will be an important part of this work as will the commercialisation of our business, reducing demand for services and income generation – we will develop appropriate strategies to ensure delivery of our targets.

## 7 Conclusions

7.1 Forecasted revenue resources for 2015/16 are £10.621m. Based on current spending plans our Net Revenue Budget for 2015/16 is £11.116m which means that additional savings of £495k are needed in the year.

7.2 Looking ahead to 2017/18 and the additional funding cuts expected, the deficit on the General Fund is estimated to be £991k, which when combined with savings already planned by Access Selby, means a total savings target of £1.348m will be needed by 2017/18 – an overall headline target of £1.5m is proposed to provide a small amount of added headroom.

7.3 At this stage the additional savings have been allocated to the Core and proposals for savings will be brought forward as part of the 2015/16 to 2017/18 budget.

7.4 Furthermore, there remains risk with the business rates retention scheme, the continuing economic situation, income generation and delivery of savings. The Council's longer term financial position is heavily reliant upon resources keeping pace with inflation and costs being contained within base budget.

7.5 Meeting the on-going savings challenge features strongly in the Council's strategic and operational plans and this work will continue with renewed focus. Our collaboration with North Yorkshire County Council and other partners, the commercialisation of our business, reducing demand for services and income generation will be important to this work.

7.6 New Homes Bonus is crucial to our financial resilience and to our capacity to invest in Selby District. Whilst a large part of this funding is directed towards supporting the Council's revenue budget, there is the potential to continue to support a future Programme for Growth and use these resources to lever further funding through partnership working. However such allocation will require the Council's savings targets to be met. Prioritising these funds will be driven by the Council's new Corporate Plan, which is scheduled for finalisation later in 2014/15.

**SELBY DISTRICT COUNCIL - 10 YEAR FINANCIAL PLAN (July 2014 V1) Best Case**

	Base 2014/15	← Medium Term Financial Plan → 2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
<b>KEY ASSUMPTIONS</b>											
Inflation		3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%
Interest Rates		1.75%	2.00%	2.00%	2.50%	3.00%	3.50%	4.00%	4.00%	4.00%	4.00%
Tax Base Increase		1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
Government Grant (SUFA) Increase		-15.40%	-8.00%	-8.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
Council Tax Increase		2.00%	2.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%
<b>COUNCIL TAX</b>											
Tax Base (Number of Band D Equivalents)	28.089	28.370	28.654	28.940	29.230	29.522	29.817	30.115	30.416	30.721	31.028
Council Tax @ Band D (£)	162.00	165.24	168.54	173.60	178.81	184.17	189.70	195.39	201.25	207.29	213.51
Council Tax Income (£000's)	4,550	4,688	4,829	5,024	5,227	5,437	5,656	5,884	6,121	6,368	6,625
Precept (£000's)	4,550	4,688	4,829	5,024	5,227	5,437	5,656	5,884	6,121	6,368	6,625
<b>REVENUE FINANCING</b>											
	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Council Tax	4,550	4,688	4,829	5,024	5,227	5,437	5,656	5,884	6,121	6,368	6,625
SFA	4,710	3,985	3,666	3,373	3,440	3,509	3,579	3,651	3,724	3,798	3,874
Top-slice for Parish CTS	-	-	-	-	-	-	-	-	-	-	-
Transitional Council Tax Support	-	-	-	-	-	-	-	-	-	-	-
Council Tax Freeze Grant	-	-	-	-	-	-	-	-	-	-	-
New Homes Bonus	1,725	2,113	2,496	2,451	2,451	2,451	2,451	2,451	2,451	2,451	2,451
Special and Specific Grants	115	-	-	-	-	-	-	-	-	-	-
Council Tax Collection Fund Surplus/Deficit	74	-	-	-	-	-	-	-	-	-	-
Business Rates Collection Fund Surplus/Deficit	- 164	50	50	50	-	-	-	-	-	-	-
<b>TOTAL EXTERNAL RESOURCES</b>	<b>11,010</b>	<b>10,835</b>	<b>11,041</b>	<b>10,898</b>	<b>11,118</b>	<b>11,397</b>	<b>11,686</b>	<b>11,986</b>	<b>12,296</b>	<b>12,617</b>	<b>12,950</b>

<b>REVENUE BUDGET</b>	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Operational Budget - Core	5,545	4,225	3,839	3,954	4,073	4,331	4,321	4,450	4,584	4,874	4,863
Operational Budget - Access Selby	6,142	6,140	6,334	6,524	6,720	6,921	7,129	7,343	7,563	7,790	8,024
Investment Interest	- 250	- 280	- 300	- 300	- 300	- 300	- 300	- 300	- 300	- 300	- 300
Parish CTS Grant	113	96	86	77							
<b>Contributions to Reserves:</b>											
PFI Scheme (Updated - incl SDC's contribu	386	394	402	435	437	440	442	443	443	443	443
Building Repairs	130	130	130	130	130	130	130	130	130	130	130
Computer Development	150	150	150	150	150	150	150	150	150	150	150
District Election	30	30	34	34	34	34	34	38	38	38	38
Pension Equalisation	186	181	183	183	183	183	183	183	183	183	183
Special Projects/P4G (C.Tax Freeze Grant)	95	119									
Special Projects/P4G (New Homes Bonus)	880	880	880	880	880	880	880	880	880	880	880
<b>Contributions from Reserves:</b>											
Spend to Save											
ICT	- 230	- 100									
PFI	- 391	- 402	- 414	- 422	- 434	- 447	- 459	- 472	- 484	- 497	- 497
Building Repairs	- 93										
Special Project/P4G	- 1,519	- 163									
District Election		- 120				- 136				- 153	
Business Rates Equalisation	- 164										
<b>Forecast Net Revenue Budget</b>	<b>11,010</b>	<b>11,280</b>	<b>11,324</b>	<b>11,645</b>	<b>11,873</b>	<b>12,186</b>	<b>12,509</b>	<b>12,845</b>	<b>13,187</b>	<b>13,539</b>	<b>13,914</b>

**SELBY DISTRICT COUNCIL - 10 YEAR FINANCIAL PLAN (July 2014 V1) Mid Case**

	Base 2014/15	← Medium Term Financial Plan →				2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
		2015/16	2016/17	2017/18								
<b>KEY ASSUMPTIONS</b>												
Inflation		3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%
Interest Rates		1.25%	2.00%	2.00%	2.50%	3.00%	3.50%	4.00%	4.00%	4.00%	4.00%	4.00%
Tax Base Increase		1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
Government Grant (SUFA) Increase		-15.40%	-10.00%	-10.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
Council Tax Increase		2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
<b>COUNCIL TAX</b>												
Tax Base (Number of Band D Equivalentents)	28.089	28.370	28.654	28.940	29.230	29.522	29.817	30.115	30.416	30.721	31.028	
Council Tax @ Band D (£)	162.00	165.24	168.54	171.92	175.35	178.86	182.44	186.09	189.81	193.60	197.48	
Council Tax Income (£000's)	4,550	4,688	4,829	4,975	5,126	5,280	5,440	5,604	5,773	5,948	6,127	
Precept (£000's)	4,550	4,688	4,829	4,975	5,126	5,280	5,440	5,604	5,773	5,948	6,127	
<b>REVENUE FINANCING</b>												
	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Council Tax	4,550	4,688	4,829	4,975	5,126	5,280	5,440	5,604	5,773	5,948	6,127	
SFA	4,710	3,985	3,586	3,228	3,292	3,358	3,425	3,494	3,564	3,635	3,707	
Transitional Council Tax Support	-	-	-	-	-	-	-	-	-	-	-	
Council Tax Freeze Grant	-	-	-	-	-	-	-	-	-	-	-	
New Homes Bonus	1,725	2,113	2,496	2,451	2,451	2,451	2,451	2,451	2,451	2,451	2,451	
Special and Specific Grants	115	-	-	-	-	-	-	-	-	-	-	
Council Tax Collection Fund Surplus/Deficit (-)	74	-	-	-	-	-	-	-	-	-	-	
Business Rates Collection Fund Surplus/Deficit (-)	- 164	- 164	- 164	- 164	-	-	-	-	-	-	-	
<b>TOTAL EXTERNAL RESOURCES</b>	<b>11,010</b>	<b>10,621</b>	<b>10,748</b>	<b>10,490</b>	<b>10,869</b>	<b>11,089</b>	<b>11,316</b>	<b>11,549</b>	<b>11,788</b>	<b>12,033</b>	<b>12,286</b>	

	Base	← Medium Term Financial Plan →				2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
	2014/15	2015/16	2016/17	2017/18	£000's							
<b>REVENUE BUDGET</b>												
Operational Budget - Core	5,545	4,145	3,839	3,954	4,073	4,331	4,321	4,450	4,584	4,874	4,863	
Operational Budget - Access Selby	6,142	6,140	6,334	6,524	6,720	6,921	7,129	7,343	7,563	7,790	8,024	
Investment Interest	- 250	- 200	- 300	- 300	- 300	- 300	- 300	- 300	- 300	- 300	- 300	
Parish CTS Grant	113	96	86	77								
<b>Contributions to Reserves:</b>												
PFI Scheme (Updated - incl SDC's contributic	386	394	402	435	437	440	442	443	443	443	443	
Building Repairs	130	130	130	130	130	130	130	130	130	130	130	
Computer Development	150	150	150	150	150	150	150	150	150	150	150	
District Election	30	30	34	34	34	34	34	38	38	38	38	
Pension Equalisation	186	181	183	183	183	183	183	183	183	183	183	
Special Projects/P4G (C.Tax Freeze Grant)	95	119										
Special Projects/P4G (New Homes Bonus)	880	880	880	880	880	880	880	880	880	880	880	
<b>Contributions from Reserves:</b>												
Spend to Save												
ICT	- 230	- 100										
PFI	- 391	- 402	- 414	- 422	- 434	- 447	- 459	- 472	- 484	- 497	- 497	
Building Repairs	- 93											
Special Project/P4G	- 1,519	- 163										
District Election		- 120				- 136				- 153		
Business Rates Equalisation	- 164	- 164	- 164	- 164								
<b>Forecast Net Revenue Budget</b>	<b>11,010</b>	<b>11,116</b>	<b>11,160</b>	<b>11,481</b>	<b>11,873</b>	<b>12,186</b>	<b>12,509</b>	<b>12,845</b>	<b>13,187</b>	<b>13,539</b>	<b>13,914</b>	
<b>Difference between resources and forecast budget (a - b)</b>	<b>0</b>	<b>- 495</b>	<b>- 412</b>	<b>- 991</b>	<b>- 1,004</b>	<b>- 1,097</b>	<b>- 1,194</b>	<b>- 1,297</b>	<b>- 1,399</b>	<b>- 1,505</b>	<b>- 1,628</b>	

**SELBY DISTRICT COUNCIL - 10 YEAR FINANCIAL PLAN (July 2014 V1) Worst Case**

	Base 2014/15	← Medium Term Financial Plan → 2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
<b>KEY ASSUMPTIONS</b>											
Inflation		3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%
Interest Rates		1.25%	2.00%	2.00%	2.50%	3.00%	3.50%	4.00%	4.00%	4.00%	4.00%
Tax Base Increase		1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
Government Grant (SUFA) Increase		-15.40%	-12.00%	-12.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
Council Tax Increase		0.00%	0.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
<b>COUNCIL TAX</b>											
Tax Base (Number of Band D Equivalents)	28.089	28.370	28.654	28.940	29.230	29.522	29.817	30.115	30.416	30.721	31.028
Council Tax @ Band D (£)	162.00	162.00	162.00	165.24	168.54	171.92	175.35	178.86	182.44	186.09	189.81
Council Tax Income (£000's)	4,550	4,596	4,642	4,782	4,927	5,075	5,229	5,386	5,549	5,717	5,889
Precept (£000's)	4,550	4,596	4,642	4,782	4,927	5,075	5,229	5,386	5,549	5,717	5,889
<b>REVENUE FINANCING</b>											
	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Council Tax	4,550	4,596	4,642	4,782	4,927	5,075	5,229	5,386	5,549	5,717	5,889
SFA	4,710	3,985	3,507	3,086	3,147	3,210	3,275	3,340	3,407	3,475	3,545
Top-slice for Parish CTS	- 160	-	-	-	-	-	-	-	-	-	-
Transitional Council Tax Support	-	-	-	-	-	-	-	-	-	-	-
Council Tax Freeze Grant	48	-	-	-	-	-	-	-	-	-	-
New Homes Bonus	1,725	2,113	2,496	2,451	2,451	2,451	2,451	2,451	2,451	2,451	2,451
Special and Specific Grants	115	-	-	-	-	-	-	-	-	-	-
Council Tax Collection Fund Surplus/Defic	74	-	-	-	-	-	-	-	-	-	-
Business Rates Collection Fund Surplus/D	- 164	- 164	- 164	- 164	-	-	-	-	-	-	-
<b>TOTAL EXTERNAL RESOURCES</b>	<b>11,062</b>	<b>10,694</b>	<b>10,644</b>	<b>10,319</b>	<b>10,525</b>	<b>10,737</b>	<b>10,954</b>	<b>11,177</b>	<b>11,407</b>	<b>11,643</b>	<b>11,885</b>



<b>REVENUE BUDGET</b>	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's	£000's
Operational Budget - Core	5,545	4,145	3,839	3,954	4,073	4,331	4,321	4,450	4,584	4,874	4,863
Operational Budget - Access Selby	6,142	6,140	6,334	6,524	6,720	6,921	7,129	7,343	7,563	7,790	8,024
Investment Interest	- 250	- 200	- 300	- 300	- 300	- 300	- 300	- 300	- 300	- 300	- 300
Parish CTS Grant	113	96	86	77							
<b>Contributions to Reserves:</b>											
PFI Scheme (Updated - incl SDC's contributi	386	394	402	435	437	440	442	443	443	443	443
Building Repairs	130	130	130	130	130	130	130	130	130	130	130
Computer Development	150	150	150	150	150	150	150	150	150	150	150
District Election	30	30	34	34	34	34	34	38	38	38	38
Pension Equalisation	186	181	183	183	183	183	183	183	183	183	183
Special Projects/P4G (C.Tax Freeze Grant	95	119									
Special Projects/P4G (New Homes Bonus)	880	880	880	880	880	880	880	880	880	880	880
<b>Contributions from Reserves:</b>											
Spend to Save											
ICT	- 230	- 100									
PFI	- 391	- 402	- 414	- 422	- 434	- 447	- 459	- 472	- 484	- 497	- 497
Building Repairs	- 93										
Special Project/P4G	- 1,519	- 163									
District Election		- 120				- 136				- 153	
Business Rates Equalisation	- 164	- 164	- 164	- 164							
<b>Forecast Net Revenue Budget</b>	<b>11,010</b>	<b>11,116</b>	<b>11,160</b>	<b>11,481</b>	<b>11,873</b>	<b>12,186</b>	<b>12,509</b>	<b>12,845</b>	<b>13,187</b>	<b>13,539</b>	<b>13,914</b>
<b>Difference between resources and forecast budget (a - b)</b>											
	<b>52</b>	<b>- 422</b>	<b>- 516</b>	<b>- 1,162</b>	<b>- 1,348</b>	<b>- 1,450</b>	<b>- 1,555</b>	<b>- 1,668</b>	<b>- 1,780</b>	<b>- 1,896</b>	<b>- 2,029</b>

<b>Reserves</b>											
<b>Description</b>	<b>Estimated Balance 31 March 14</b>	<b>Use</b>	<b>Contribs</b>	<b>Estimated Balance 31 March 15</b>	<b>Use</b>	<b>Contribs</b>	<b>Estimated Balance 31 March 16</b>	<b>Use</b>	<b>Contribs</b>	<b>Estimated Balance 31 March 17</b>	<b>Comments</b>
	£	£	£	£	£	£	£	£	£	£	
<b>Revenue Reserves</b>											
<b>General Fund</b>											
<b>Reserves to fund future commitments:</b>											
PFI Scheme	2,406	- 391	386	2,401	- 402	394	2,393	- 414	402	2,381	
ICT	630	- 472	200	358	- 228	200	330	- 342	200	188	
Building Repairs & Projects	674	- 524	130	280		130	410		130	540	
Election	97		30	127	- 120	30	37		34	71	
Tadcaster Central Area	273	- 273		-			-			-	Transfer £136k balance to Programme for Growth
Industrial Units	60	- 24		36			36			36	
Open Space Maintenance	11			11			11			11	
	4,151	- 1,684	746	3,213	- 750	754	3,217	- 756	766	3,227	
<b>Reserves to fund growth and improvement:</b>											
Special Projects (Programme for Growth)	2,667	- 2,566	2,239	2,340	- 88	999	3,251	- 30	880	4,101	Assumes allocated resources to 2014/15 are spent as planned
Special Projects (Non_PFG commitments)	317	- 317		-			-			-	£167k balance transferred to Programme for Growth
Discretionary Rate Relief Fund	300			300			300			300	
NYCC Collaboration	250			250			250			250	
Business Development (Spend To Save)	272		228	500			500			500	
	3,806	- 2,883	2,467	3,390	- 88	999	4,301	- 30	880	5,151	
<b>Reserves to mitigate financial risk:</b>											
Pensions Equalisation Reserve	600	- 600	186	186		181	367		183	550	£600k transferred to Programme for Growth
NDR Equalisation	3,610	- 3,282	361	689	- 164		525	- 164		361	Sufficient balance for further 2 years cover down to safety net
Planning Inquiries	100	- 100		-			-			-	£100k Transferred to Programme for Growth
Access Selby	592	- 342		250		164	414		203	617	To mitigate financial risk for Access Selby - contributions subject to in year surpluses
Contingency	553	- 53		500			500			500	Funds to cover planning appeals and inquiries plus other unforeseen items
General Fund	1,674	- 174		1,500			1,500			1,500	Working Balance - funding of last resort
	7,129	- 4,551	547	3,125	- 164	345	3,306	- 164	386	3,528	
<b>Other Reserves:</b>											
Sherburn Amenity Land	10	- 10		-			-			-	Transfer to Programme for Growth
Wheeled Bins	18	- 18		-			-			-	No calls on this funding - transfer to Programme for Growth
	28	- 28		-			-			-	
<b>Sub Total</b>	<b>15,114</b>	<b>- 9,146</b>	<b>3,760</b>	<b>9,728</b>	<b>- 1,002</b>	<b>2,098</b>	<b>10,824</b>	<b>- 950</b>	<b>2,032</b>	<b>11,906</b>	

**Key:**

Green: Savings likely to be achieved/low risk
Amber: Tentative savings - further work required/medium risk
Red: Requires a change in Council policy or significant change in service delivery/high risk

Proposed Savings	Status	2014/15 £	2015/16 £	2016/17 £	Progress
<b>Procurement Workstream</b>					
Election Software	Green	4,988	5,087	5,189	Completed
Audit Partnership	Green	15,918	16,236	16,561	Completed
<b>Total Procurement</b>		<b>20,906</b>	<b>21,323</b>	<b>21,750</b>	
<b>Transformation Workstream</b>					
WWT - Transformation (Core)	Green	53,060	54,122	55,204	Completed
Joint CE with NYCC appointed and 1 further FTE reduction	Green	82,000	82,820	83,648	Completed
<b>Total Transformation</b>		<b>135,060</b>	<b>136,942</b>	<b>138,852</b>	
<b>Value for Money Workstream</b>					
Internal Drainage Boards	Green	151,898	154,936	158,035	Completed
Community Safety	Green	16,236	16,561	16,892	Completed
Ward Boundary Review	Amber	-	30,000	30,000	To be implemented following next election May 2015 - amount subject to review of allowances.
<b>Total Value for Money</b>		<b>168,134</b>	<b>201,497</b>	<b>204,927</b>	
<b>Base Budget Review Workstream</b>					
External Audit Fee	Green	53,370	53,370	53,370	Completed
Early Retirements - Strain on Pension Fund	Green	98,512	100,482	102,491	Completed
Corporate and Democratic Core	Green	7,140	7,283	7,428	Completed
Pay award from 2.5% est to 1% revised	Green	33,150	48,118	48,118	Completed
Internal Audit	Green	13,790	14,066	14,348	Completed
Car Allowances	Green	2,850	2,850	2,850	Completed
Civic Centre NNDR	Green	65,996	65,996	65,996	Completed
<b>Total Base Budget Review</b>		<b>274,808</b>	<b>292,165</b>	<b>294,601</b>	
<b>Discretionary Service Review Workstream</b>					
External Grants	Green	12,000	12,000	12,000	Completed
<b>Total Discretionary Service Review</b>		<b>12,000</b>	<b>12,000</b>	<b>12,000</b>	
<b>Income Generation Workstream</b>					
Use of assets for advertising space	Amber	5,000	25,000	25,000	Contract signed. Planning consent due by end of Oct 14. Revised target for 2014/15
<b>Total Income Generation</b>		<b>5,000</b>	<b>25,000</b>	<b>25,000</b>	
<b>Total General Fund Savings</b>		<b>615,908</b>	<b>688,927</b>	<b>697,130</b>	
<b>Savings Target</b>		<b>481,374</b>	<b>941,456</b>	<b>957,756</b>	
<b>Headroom/Deficit (+/-)</b>	**	<b>134,534 -</b>	<b>252,529 -</b>	<b>260,626</b>	
<b>Green Savings</b>		610,908	633,927	642,130	
<b>Amber Savings</b>		5,000	55,000	55,000	
<b>Red Savings**</b>		-	-	-	
<b>Total</b>		<b>615,908</b>	<b>688,927</b>	<b>697,130</b>	

Proposed Savings	Status	2014/15	2015/16	2016/17	Progress
		£	£	£	
<b>IT &amp; Transformation Workstream</b>					
CRM Replacement	Red	-	52,785	53,840	The CRM project is underway with NYCC, and is currently on track.
Mobile Working	Red	-	125,038	142,814	Project currently under review by Access Selby Directors. Any changes will be reflected in the savings plan once the review is complete.
Spend to save initiatives	Red	25,000	25,500	26,010	Officers encouraged to highlight spend to save initiatives. Access Selby board will approve on a case by case basis.
Fuel Site	Red	1,650	-	-	- Discussions taking place with NYCC.
Review of planning advice and consultants	Amber	3,750	-	-	- Procurement team reviewing in consultation with Planning.
Joint Business Support Manager Post	Green	25,658	14,530	14,675	New manager in post from 1st September. Additional savings in Year 1 due to vacant period.
<b>Total Transformation</b>		<b>56,058</b>	<b>217,853</b>	<b>237,339</b>	
<b>Commissioning Workstream</b>					
SDC Contract Hire Vehicles	Green	-	-	-	- The majority of vehicles arrived in July, several vehicles are also due in October. Dale Casson has reported that we are on target for savings, however the savings belong to the HRA so transferring to the HRA savings plan.
Banking tender	Green	-	10,000	10,000	Go live happened successfully - new service provider (Barclays) now up and running.
Printers	Green	10,000	18,811	18,811	At contract signing stage, project on track.
Lifeline pendants	Green	-	-	-	- Dale Casson has reported we're all on track for replacement and savings targets. However we cannot count these as savings as the Core provided the funds to but the pendants, so savings will repay them and build up a surplus for future replacement. Targets changed to 0.
Postage and Mail	Green	5,000	-	-	- Discussions taken place with current supplier to negotiate discount.
Insurance	Green	-	-	-	- Tendering exercise now concluded and report has been written by our brokers (Marsh) to recommend re-engagement with ZM.
External Telecoms	Green	-	-	-	- Existing contract with Daisy ends in November 2015. Need to compare bills from past few months since the change in phone system to see if there has been a reduction in spend
Stationery	Green	500	500	500	New rates negotiated, savings on track.
Supplier Engagement	Amber	25,000	-	-	- Discussions taking place with suppliers.
Reduce Tail end spend	Amber	14,500	-	-	- Being investigated by procurement and contracts team
IT Service Contracts	Amber	-	7,500	7,500	Review currently under way
Home Improvement Agency contract	Green	5,000	5,000	5,000	Joint procured contract took effect in April, full saving of £5k will be achieved this year
<b>Total Commissioning</b>		<b>60,000</b>	<b>41,811</b>	<b>41,811</b>	
<b>Income Generation Workstream</b>					
Court Cost / Summons Income - Council Tax recovery proceedings	Green	30,000	30,000	30,000	On track
Negotiation for share of out performance on Council Tax collection	Amber	4,225	4,225	4,225	For 14/15 we anticipate collecting 0.2% over the 98.1% target, meaning we could hope to achieve 5% of £84.5k: £4,225. Target remains at £4225.
Enhanced Planning Advice Service	Green	12,000	15,300	15,606	On track for £12k for 2014/15. Original target reduced from £15k to £12k in June based on uptake information.
Maximise current income streams	Red	100,000	102,000	104,040	Officers working to highlight initiatives.
Programme for Growth	Red	40,000	40,000	0	Currently undergoing a gateway review.
Policy changes to introduce new income streams	Red	0	50,000	102,000	No initiatives identified for the current year, options for future years are being reviewed.
Car Park Income	Red	20,000	20,333	21,000	Ongoing monitoring taking place.
Registrar Service	Amber	2,750	11,000	11,000	Costs agreed, and arrangement expected to commence early 2015
<b>Total Income Generation</b>		<b>208,975</b>	<b>272,858</b>	<b>287,871</b>	
<b>Other</b>					
Vacancy / Secondment savings between appointments	Amber	38,229	38,611	39,383	Monitored on a monthly basis
Agency Staff	Amber	2,500	-	-	Procurement team currently analysing this option.
<b>Total Other</b>		<b>40,729</b>	<b>38,611</b>	<b>39,383</b>	
<b>Total General Fund Savings in Progress</b>		<b>365,762</b>	<b>571,133</b>	<b>606,404</b>	

Completed (GREEN) General Fund Savings	3,000,156	3,116,582	3,174,475
Total General Fund Savings	3,365,917	3,687,715	3,780,880
Savings Target	3,411,816	3,582,719	3,619,388
Headroom/Deficit (+/-)	** - 45,899	104,996	161,492
Green Savings	3,088,313	3,210,723	3,269,068
Amber Savings	90,954	61,336	62,108
Red Savings**	186,650	415,656	449,704
Total	3,365,917	3,687,715	3,780,880

## **2013/14 – 2016/17 GENERAL FUND CAPITAL PROGRAMME**

	Current Programme 2013/14 £	Estimated Programme 2014/15 £	Estimated Programme 2015/16 £	Estimated Programme 2016/17 £
<b><u>PROJECTS</u></b>				
Asset Management Plan Leisure Centres & Park	20,500			
Tadcaster Central Area	250,690			
Road Adoption - Industrial Units Sherburn	25,000			
All weather sports pitch		250,000		
Mast Relocation	145,210			
CCTV	23,600			
Telephony System (Subject to bid)		67,000		
Collapsed Culvert - Portholme Road (Subject to bid)		150,000		
Lifeline Equipment (Subject to bid)		180,000		30,000
Housing Development		300,000	1,250,000	1,250,000
<b><u>Grants</u></b>				
Disabled Facilities Grants	350,000	300,000	300,000	300,000
Repair Assistance Loans (Subject to bid)	35,800	30,000	30,000	30,000
Energy & Efficiency Grants	13,640			
<b><u>ICT Hardware &amp; Systems Within ICT Strategy</u></b>				
Implementation & Infrastructure Costs	284,190	75,000	55,000	307,000
Desktop Replacement Programme	15,000	17,500	17,500	17,500
CRM		55,385		
Mobile Working Solution		55,000	113,800	
<b>TOTAL</b>	<b>1,163,630</b>	<b>1,479,885</b>	<b>1,766,300</b>	<b>1,934,500</b>
<b><u>SUMMARY OF FUNDING</u></b>				
Capital Receipts	249,720	185,000	185,000	185,000
Grants & Contributions	149,720	145,000	145,000	145,000
Revenue				0
Reserves	764,190	849,885	186,300	354,500
Borrowing	0	300,000	1,250,000	1,250,000
<b>TOTAL</b>	<b>1,163,630</b>	<b>1,479,885</b>	<b>1,766,300</b>	<b>1,934,500</b>

## Programme for Growth

Project	Allocations		Assumed Spend Profile							Comments	
	Capital £	Revenue £	Actual 12/13 £	Estimate 13/14 £	Actual 13/14 £	Estimate 14/15 £	Estimate 15/16 £	Estimate 16/17 £	Estimate 17/18 £		Estimate 18/19 £
Programme Management		93,333	3,011	40,000		40,000	10,322	-			Officer support for 3 years
Housing Trust	-	180,000	3,600	33,900		30,000	30,000	30,000	30,000	22,500	£30k set up costs plus development support to the Trust of £30k p.a. for 5 years from January 2014
Housing Policy Reviews	-	-									£20k originally allocated but work subsumed within other projects
Empty homes	100,000	26,000	-	31,500		63,000	31,500	-	-	-	Strategy and support plus loans pot
43 Kirkgate	-	3,540	-	3,540		-	-	-	-	-	Planning permission preparation and fees
Environment - infrastructure review	-	20,000	-	20,000		-	-	-	-	-	Linked to retail works streams
Environment - policy reviews	-	-									£20k originally allocated but work subsumed within other projects
Environment - Masterplan	-	50,000	-	50,000		-	-	-	-	-	Linked to retail workstreams
Environment - improvements to gates	-	15,000	-	15,000		-	-	-	-	-	Roundabout schemes and associated initiatives
Identify target sector	-	5,000	-	5,000		-	-	-	-	-	Research project to support associated strategies and policies
Business Selby	-	40,000	-	29,500		10,500	-	-	-	-	Open for Business initiatives
Ready 4 Work	-	72,500	-	19,300		37,100	16,100	-	-	-	Over 2 years plus match funding from Access Selby
Leisure Centre New Build	7,032,050	-	-	1,900,000		5,132,050	-	-	-	-	£2m P4G, £2m from Sport England and £3m insurance claim
Affordable Access	-	-									£25k on-going cost met by savings on ALC
Community Delivery	-	-									£126.5k p.a. - met by savings from WLCT contract
Selby Leisure Village	-	54,500	-	14,000		40,500	-	-	-	-	Project supported at Competitive Dialogue stage but full scheme and costs not yet established - 50% ISDS fees underwritten should scheme not go ahead
Retail experience	-	350,000	-	350,000		-	-	-	-	-	Initiatives to support 3 Market Towns
Growing enterprise	-	150,000	-	150,000		-	-	-	-	-	As above
Site acquisition fund: - 55 - 57 Bondgate	1,150,000 600,000	- -	5,090 -	1,052,000 600,000		92,910 -	- -	- -	- -	- -	Subject to business cases - £5,090 spend on abortive costs for travellers site
Total	8,882,050	1,059,873	11,701	4,313,740	-	5,446,060	87,922	30,000	30,000	22,500	Purchase of land
<b>Total</b>		<b>9,941,923</b>									
<b>Resources</b>		<b>£</b>	<b>£</b>	<b>£</b>		<b>£</b>					
Special Projects Reserves		4,982,000	11,701	4,313,740		413,560	87,922	30,000	30,000	22,500	Revenue and Capital Reserves
Insurance Claim - ALC		3,000,000				3,000,000					Selby Leisure Centre
Sport England Grant		2,032,500				2,032,500					Selby Leisure Centre
<b>Total</b>		<b>10,014,500</b>	<b>11,701</b>	<b>4,313,740</b>		<b>5,446,060</b>	<b>87,922</b>	<b>30,000</b>	<b>30,000</b>	<b>22,500</b>	
<b>Funding contingency</b>		<b>72,577</b>									

**Public Session**

**Report Reference Number C/14/9**

**Agenda Item No: 14**

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**To: Council**  
**Date: 14 October 2014**  
**Author: Ralph Gill, Lead Officer Benefits & Taxation**  
**Lead Officer: Karen Iveson, Executive Director (s151)**  
**Executive Member: Councillor Cliff Lunn**

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**Title: Localisation of Council Tax Support from April 2015**

**Summary:**

This report presents the Executive's proposal for the on-going provision of Localised Support for Council Tax with effect from April 2015. It is proposed that the maximum award payable to working age claimants is reduced from 91.5% (current scheme) to 90% of their Council Tax bill. It is also proposed that the minimum wage is used as a proxy for earnings for self-employed people who declare that their earnings are below this level. This 'floor' is a feature of Universal Credit.

**Recommendations:**

**The Executive has resolved to recommend to Council:**

- i. To reduce the maximum award for Council Tax Support for working age claimants from 91.5% to 90% with effect from April 2015 for the 2 years April 2015 to March 2017;**
- ii. To introduce a minimum income floor for self-employed people (excluding the first year of trading) based upon the national minimum wage, with effect from April 2015.**

**Reasons for recommendation**

To reduce the cost of the scheme, now that the transitional funding to limit the scheme for working age claimants to 91.5% has ended and to standardise our approach to self-employed income in line with the Universal Credit system. The Council must review and adopt a scheme at least every two years.



## **1. Introduction and background**

- 1.1 A localised scheme of Council Tax Support replaced Council Tax Benefit with effect from April 2013.
- 1.2 Whereas previously the Council had received a subsidy which represented 100% of the cost of Council Tax Benefits, when the change was introduced the Government reduced the funding by around 15%. The impact on claimants was limited in the first year through a small additional transitional grant – to help to achieve the Government’s pledge that working age claimants entitled to the maximum award, would not have to pay more than 8.5% of their Council Tax bill.
- 1.3 Selby District Council chose to take up the offer of transitional grant and implemented a scheme with a maximum award of 91.5% for working age claimants. Under the rules of the scheme eligible pensioners were (and still are) protected and continue to receive awards of up to 100%.
- 1.4 Because of the changes, there was a reduction in the Council Tax Base, from which Council Tax income is derived. This was partly compensated through additional settlement funding (RSG/Business Rates).
- 1.5 The government's stated aims in introducing this change were:
  - To give local authorities a financial stake in the provision of support for council tax and a greater stake in the economic future of their local area, and supporting the government’s growth agenda;
  - The opportunity to reform and simplify the system of support for working age claimants;
  - To reinforce local control over council tax - consistent with a drive for greater local financial accountability;
  - To give local authorities a significant degree of control over how a 10 per cent reduction in expenditure is achieved;
  - To contribute to the Government’s programme of deficit reduction.
- 1.6 When considering the overall costs of the new scheme, the Council resolved to implement a ‘cost neutral scheme’ balancing the impact on claimants with the impact on Council Taxpayers generally. This was achieved by reducing or removing other Council Tax exemptions and discounts – for example reducing the exemptions for premises that have been unoccupied and substantially unfurnished for less than six months (Class C) from 100% for 6 months to 100% for 1 month then 20% for 5 months.
- 1.7 The transitional funding was available for the first year only, although Selby District Council chose to implement a two year scheme (the

maximum period allowable). The current scheme comes to an end in March 2015 and therefore the Council must approve a scheme to take effect from April 2015. Any changes to the scheme must be subject to public consultation.

- 1.8 The Council's current caseload for Council Tax Support is around 5,130 claimants with just under half of these of working age (48.7%). It is estimated that the scheme as a whole, will cost approximately £4.31m in 2014/15.

## **2. The Report**

- 2.1 In considering a new scheme from April 2015 the Executive consulted on a range of options – from a maximum award for working age claimants of 90%, down to a maximum award of 80%. No other changes to discounts and exemptions were proposed.

### **Consultation**

- 2.2 An extended period of consultation has been undertaken (due to some initial technical issues) via an on-line survey. In total just 10 responses have been received with half (a small majority of 1) favouring a maximum award of 90%. Comments received are largely concerned with the impact on claimants' ability to pay and the added recovery costs for the Council in collecting these debts.
- 2.3 The Council has not experienced a large reduction in the Council Tax Collection Rate following the introduction of the current scheme. The Council will always engage with householders experiencing difficulty and will take all reasonable steps to help. Where payment arrangements are agreed people are asked to confirm that such arrangements are affordable.
- 2.4 Several respondents commenting on the self-employed minimum income floor stated that the assessment should be National Minimum Wage based on the actual number of hours worked and this is in line with the Executive's recommendation.
- 2.5 The public consultation results are shown in full at Appendix A.

### **The Proposed CTS Scheme April 2015**

- 2.6 Because the transitional grant which was intended to limit the impact of the changes to 8.5% has now dropped out of the grant settlement, a reduction in the maximum award of Council Tax Support for Working Age people from 91.5% to 90% is proposed. The reduction in the maximum award will mean, on average and based upon the maximum award and assumptions on next year's Council Tax levels, a 29p per week increase in the amount of Council Tax to be paid by claimants. A

breakdown of scheme costs for each of the three options presented for consultation is set out in Section 3.2.1.

### **Minimum Income Floor for Self-Employed Claimants**

- 2.7 The introduction of an income floor for self-employed people is also proposed, to bring our scheme into line with Universal Credit. Self-employed income is based on the profit/loss declared by the claimant for their business. This information can be difficult to challenge and therefore it is proposed that the National Minimum Wage is used (together with the claimant's declared hours worked) except where the declared income is higher than the minimum wage. It is proposed that the 'floor' is applied from the second year of trading to allow for business start-up costs and to provide a period for the business to become established.

## **3. Legal/Financial Controls and other Policy matters**

### **3.1 Legal Issues**

3.1.1 The legislation for the scheme is derived from the Local Government Finance Act 2012.

3.1.2 Once adopted by Council the scheme may not be changed in year. Any changes to the proposed scheme may only be applied from April 2016 and would be subject to further public consultation.

### **3.2 Financial Issues**

3.2.1 Assuming a 2% increase in Council Tax levels for 2015/16, the relative costs of the options considered are set out in the table below. The table also shows the indicative Council Tax amounts payable for the year by claimants in receipt of the maximum award (examples shown are Eggborough, which is representative of the average parish charge, and Selby Town):

Option	Maximum award of CTS	Total Scheme Cost p.a.	Total Annual Scheme Saving	SDC Share of Scheme Savings	Minimum amount to pay in Eggborough p.a. (Band B)	Minimum amount to pay in Selby p.a. (Band B)
Current scheme	91.5%	£4.349m	nil	nil	£104.14	£ 109.03
1	90.0%	£4.311m	£38k	£4.0k	£122.52	£ 128.27
2	85.0%	£4.186m	£163k	£17.4k	£183.79	£ 192.41
3	80.0%	£4.062m	£287k	£30.8k	£245.05	£ 256.54

### 3.3 Other Policy Matters

- 3.3.1 Pensioners are unaffected by the proposed changes.
- 3.3.2 An impact assessment has been prepared which shows that working age people are negatively impacted by the proposed changes to the scheme. However the proposed changes are relatively small in financial terms and advice and support will continue to be available to assist those in difficulty – for example through Discretionary Housing payments.
- 3.3.3 The Council's approved Council Tax Support Vulnerability and Work Incentives Policy addresses how the Scheme takes account of the Council's responsibilities for:
- Child poverty
  - The chronically sick and disabled
  - The Armed Forces Covenant
  - Work Incentives
- 3.3.4 Changes to levels of Council Tax Support will also have an impact on parish and town councils.
- 3.3.5 Discounts on Council Tax have the effect of reducing the Council Tax Base. Major preceptors are partly compensated for this loss through additional grant funding but parish councils do not receive Government funding directly. In the first year the Government provided and separately identified an additional grant which the Council paid to parishes – in the first year this amounted to £134k. This was not enough to cover the loss but SDC paid an additional amount to top this up to £160k although this still fell slightly short of the loss incurred.
- 3.3.6 Since 2014 the Council Tax Support Grant provided by DCLG has not been separately identified, although the Government has continued to claim that it has been included within the Settlement Funding Assessment. As a result it is not possible to identify how much money the Council receives for the scheme as a whole and how much ought to be paid to parish and town councils. For 2014/15 the Council paid an amount equivalent to the £134k reduced by an amount equivalent to the grant cut SDC had received – £113k was paid to parishes in 2014/15. It is proposed that a similar calculation is applied for 2015/16 and 2016/17, which means an estimated payment of £96k in 2015/16 and £86k in 2016/17 **(these figures can only be confirmed once the Council's settlement funding reductions are known)**.
- 3.3.7 Some parishes have responded to the reduction in Tax Base by increasing their precepts, which is permissible because they are not

restricted through the 'excessive' Council Tax increase rules in the way that major preceptors are.

- 3.3.8 A number of parishes within the District of Selby are not affected by the Council Tax Support scheme as they do not raise precepts and one parish currently has no households receiving support.
- 3.3.9 It is not possible at this stage to calculate the impact on individual parishes as the Council Tax Base for 2015/16 and its breakdown by parish has not been calculated and fluctuations in claimant numbers/claim values can mean significant movement in the Tax Base. It is proposed that specific consultation with parish and town councils is undertaken as soon as this information is available.

#### **4. Conclusion**

- 4.1 A reduction in the maximum award for Council Tax Support for Working Age people is proposed along with the introduction of a Minimum Income Floor for the self-employed. The reduction in the maximum award will mean, on average based upon the maximum award, a 29p per week increase in the amount of Council Tax to be paid by claimants.
- 4.2 In overall terms this will reduce the estimated cost of the scheme by around £38k per annum in 2015/16 – with approximately £4k of this saving benefitting Selby District Council, the balance goes to the other major preceptors (the County Council, Police and Fire Services).

#### **5. Background Documents**

Impact Assessment  
Vulnerability and Work Incentives Policy

#### **Contact Details**

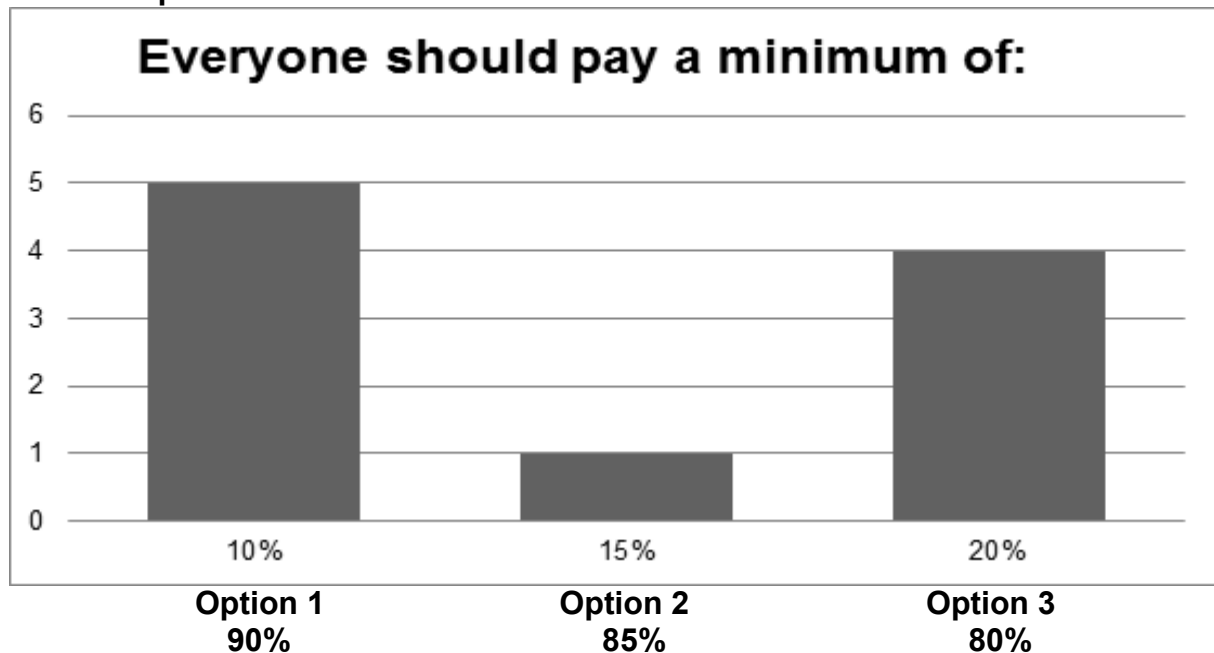
Ralph Gill  
Lead Officer  
Benefits & Taxation  
rgill@selby.gov.uk

#### **Appendices:**

**Appendix A – Public Consultation responses**

**Appendix B – Proposed Council Tax Support Scheme**

**Public Consultation responses as at 30/09/14**  
**Part 1 – Options 1 to 3**



Comments from individual respondents:

1. Our concern is that many of the people concerned have been receiving full benefit and do not recognise the need to pay; there is also the added pressure on low income families. When they are unable to pay they do not realise that with court action and transfer to Debt collection/bailiffs often the debt increased several fold Perhaps additional information to show the impact may help those families to realise that non-payment can extend debt An additional example would be a working age person on basic JSA (£72.50) has a liability usually of around £100 a year (equiv. to £2 a week), a high percentage of their income
2. Whilst the law says Pensioners should not be affected I personally see no reason for them not to be; their income levels are far higher when looking at people who qualify for help
3. The higher the percentage the higher the likely CT arrears and consequent management costs will be.
4. The level of reduction and cost savings needs to be weighed up against the reduction in the collection rates for Council Tax. I have worked with a number of local authorities who have reduced the maximum discount from 91.5% to 80% and collection figures have fallen by over 1.5% in some (which in one authority equates to nearly £1.5m in lost revenue to the Council and caused them obvious difficulties. Selby's loss would be relative). The cost of collection has

also increased with an increased number of reminders, summons and court costs along with time spent chasing the 'can't pay's 'as opposed to the 'won't pays' and monitoring bailiffs to a greater extent due to the increased workload passed to them. There would, potentially, need to be an increase in staffing levels or a redesign of service delivery to maintain the current collection rates. The level of write offs will increase as it is deemed too costly and inefficient to chase these people and the Council will potentially be left with a hole in its budget for the year. This in turn could lead to a larger increase in Council Tax for the rest of us the following year than is necessary to plug any potential budget shortfalls. There also needs to be the knock on consideration against the spare room subsidy ('bedroom tax') as a number of the people affected by any further reduction in assistance for CTS will already have been affected by a reduction in their HB payable due to under occupancy. There is only a finite amount of money a lot of these people have to spend and it can have a ripple effect on their ability to pay the shortfall in their rent if their Council Tax payments have also increased. This leads to greater rent arrears for the Social Landlords and affects their ability to invest in more affordable homes.

5. When you are starting a business up and are self-employed it's very difficult to get help from the council regarding council tax benefit. It would help by only having to pay 10%

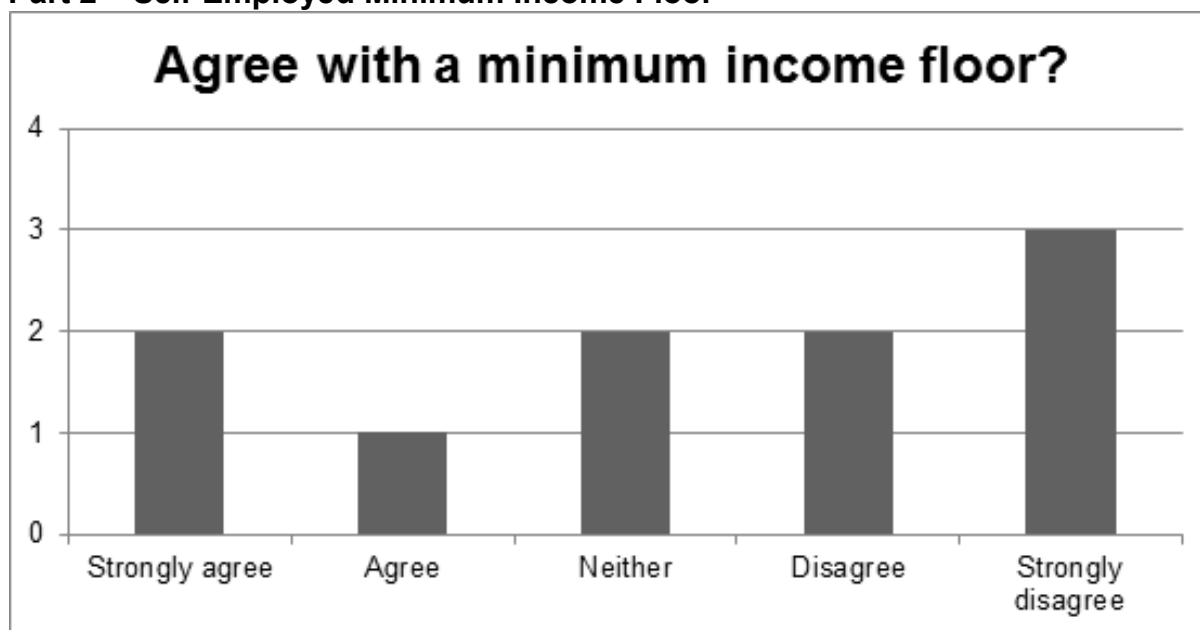
### **Analysis**

People who selected 15% or 20% for council tax contributions did not comment, whereas every single response for 10% was justified or elaborated on through the comments box.

### **Summary of comments on council tax support:**

- ✚ people who had been receiving full benefit do not recognise the need to pay
- ✚ lack of awareness that non-payment can lead to expensive court action, adding further to debt
- ✚ added pressure on low income families
- ✚ disagreement with the law protecting pensioners
- ✚ the need to take into account the cost of non-payment and arrears to the council, as the cost of collection will increase and collection rates will reduce
- ✚ consideration of the Spare Room Deduction, which has already impacted the budgets of many people in receipt of council tax support

## Part 2 – Self-Employed Minimum Income Floor



Comments from individual respondents:

1. Whilst in principle we can see that an equivalent income is to be recognised this should be in line with the actual hours 'worked' and potentially linked to any say Tax credits claimed so a single parent/single disabled person self-employed 16hrs a week at most would have 16hrs of the min wage equivalent This is particularly the case for that increasing group of people who are neither employable ( through sickness/disability) or eligible to get ESA who manage by 'self-employment ' managed within their capability This potential legislation is taken from Universal Credit and does appear to be flawed from the outset.
2. The actual hours equivalent should be based on the actual hours worked not assume 35 hours
3. Calculation should be based on actual income.
4. I disagree because of the administration of this. How would it be administered? CTS is awarded through the Northgate Revs & Bens system alongside HB. If a customer is claiming HB and CTS one claim is administered into the system and it is the system that splits out the different awards of HB and CTS. HB has its defined regulations as to how self-employed income should be treated and in the scenario above would be assessed on nil income and their award based on that. CTS would also seek to award on that basis unless the parameters behind the scenes can be changed to reflect a minimum income floor (which I don't believe they can although I am prepared to be corrected). As



such a separate CTS claim would need to be assessed increasing workloads for the HB dept, increasing demand on Customer Services as people contact them to get an explanation as to why they have two different assessments and stating that their CTS income is wrong as they don't earn that. It would also leave the door open to challenge at Tribunal as you would be treating self-employed earners differently to other claimants. Unless you bring in a minimum income floor for all claimants i.e. those on 12, 16, 20 hours a week etc. increased to 35 hours per week at the National Minimum Wage for their age group then I believe you would be opening the Council up for a discrimination challenge as you are allowing all other claimant's claims on their actual income whereas for self-employed claimants you are artificially inflating their income. As an aside would this only apply to those whose income is zero or making a loss or would it apply to all self-employed earners whose income was below the level of 35 hours at the NMW. Would all self-employed earners be inflated to the NMW level or is the equivalent of 16 hours per week income acceptable. What if the customer only works 16 hours per week self-employed? Why would they be inflated to the minimum income floor of 35 hours per week? I believe whilst well intentioned this potential policy has too many flaws and would be revoked at tribunal. I would certainly advise anybody affected by this to appeal to a tribunal and further if required.

5. The question does not explain how this would affect an entitlement and therefor it is impossible to give an opinion
6. Don't understand the question

### **Analysis**

All three responses who strongly disagreed with the measure added further comments, however no comments came from those who agreed or strongly agreed with the minimum income floor.

### **Summary of comments on minimum income floor:**

- ✚ equivalent income should be linked to actual hours worked
- ✚ or should be based on actual (i.e. declared) income
- ✚ doubts about the administration of the income floor
- ✚ fear of discriminating against self-employed earners by artificially inflating their income

### **Part 3 – Demographic Notes**

- ✚ one respondent was self-employed
- ✚ the female to male gender ratio of respondents was 7:3
- ✚ the age distribution was as follows:
  - 25-44 (4)
  - 45-59 (5)
  - 60+ (1)
- ✚ two respondents are in receipt of council tax support

**Proposed Council Tax Support Scheme**

<b>Discount / Exemption (No changes proposed)</b>	<b>Current level of discount / exemption</b>	<b>Suggested level of discount / exemption</b>
<b>Council Tax Class A Exemption –</b> <i>Vacant premises, which require, are undergoing or have recently undergone major repair including structural repairs</i>	20% for 12 months	No change
<b>Council Tax Class C Exemption –</b> <i>Premises that have been unoccupied and substantially unfurnished for less than six months</i>	100% for 1 month; then 20% for 5 months	No change
<b>Second Homes</b>	0%	No change
<b>Long-Term Empty Dwellings</b>	0%	No change

9.3 The suggested scheme would require the following changes to be made to Council Tax Support for working age people if the additional funding is accepted:

<b>CTS Element</b>	<b>Current CTS Element</b>	<b>Proposed CTS Element from April 2015</b>
<b>Council Tax Liability</b>	91.5% Liability	90% Liability
<b>Second Adult Rebate</b>	0% for normal households / 91.5% for student households	0% for normal households / 90% for student households



## **Public Session**

**Report Reference Number C/14/10**

**Agenda Item No: 15**

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**To: Council**  
**Date: 14 October 2014**  
**Author: Karen Iveson, Executive Director (s151 Officer)**  
**Lead Officer: Karen Iveson, Executive Director (s151 Officer)**  
**Lead Executive: Councillor Mark Crane**

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**Title: Business Rates Pooling**

### **Summary:**

This report sets out the issues associated with the potential for Selby to join the Leeds City Region (LCR) Business Rates Pool, following consideration by the Executive at their meeting on 2 October 2014. At that time and at the time of finalising this report we await confirmation from LCR Pool authorities that Selby may join that pool.

The existing LCR pool was established from April 2013. For the year 2013/14 an additional £1.532m is expected to be retained for distribution locally.

Joining the LCR pool would mean that any levy payable by Selby as a result of business rate gains would be retained within the LCR rather than being paid over to the DCLG. Additional resources would then be available for investment within the LCR.

The risks associated with joining a business rates pool are concerned with the funding of any potential safety net payments although any loss would need to be significant and no authorities within the existing pool are expected to be in this situation.

### **Recommendations:**

**It is recommended that the Council delegate the decision to join a Business Rates pool to the Chief Executive in consultation with the**

**Leader, Lead Member for Resources and the s151 Officer, should it be considered to be in the financial interests of Selby District Council.**

**Reasons for recommendation**

To allow the Council to meet the Government deadline for pool applications of 31 October should it be considered beneficial for the Council to join a Business Rates Pool.

**1. Introduction and background**

- 1.1** Under the rates retention scheme, which came into effect on 1 April 2013, local authorities are able to keep a proportion of the business rates that they collect.
- 1.2** The scheme redistributes resources where authorities collect more or less than their assessed need, through a system of top-ups and tariffs. The scheme provides a target for each authority and allows a proportion of additional growth to be retained locally (with a proportion being paid to central government through a levy payment) and also provides a safety net for authorities who, in any year, see significant falls in their income from the rates retention scheme.
- 1.3** As part of the rates retention scheme, authorities can formally seek designation as a pool. This not only allows them to pool their resources under the scheme (which they could do anyway), but ensures that they are treated as if they were a single entity for the purposes of calculating tariffs, top-ups, levies and safety net payments.
- 1.4** North Yorkshire County Council and 5 of the districts in North Yorkshire (excluding Harrogate and Selby) established a pool with effect from April 2014. Selby's membership was declined due to the risks associated with the power stations. Officers have been advised that the North Yorkshire pool is expected to continue next year although Richmondshire have identified a risk to their rates income and further work to quantify this is currently underway. Officers have asked if the potential for Selby to join the North Yorkshire pool is an option for 2015/16 and we await a response from the pool authorities.
- 1.5** In 2012 there was the potential of joining the Leeds City Region (LCR) pool but the perceived risks within the new Business Rates funding system and the benefits of being part of that pool suggested that that it was not appropriate at that time. The LCR pool is now operational and includes Harrogate & York Councils.
- 1.6** Since Selby was declined membership of the NY pool and following the steer from Council, officers have approached the LCR pool to consider the potential for Selby to join that pool. To date discussions have been

positive although this would need formal agreement from the existing members and Government. At the time of writing this report we await confirmation of our pooling options and further information will be provided at full Council should this become available.

## **2. The Report**

### **Leeds City Region Business Rates Pool Proposal**

#### Procedures for creation of a business rates pool

- 2.1 The Government have produced a prospectus which contains information about pooling for the year commencing 1 April the following year. The deadline for submission of a request to form a pool is 31 October.
- 2.2 Before designating a new pool, Government will need to be assured that governance arrangements are in place and that these cover, at the least:
  - the rights and obligations of pool members; including
  - how money is to be disbursed to/between pool members and how payments to central government are to be funded by the lead authority;
  - the treatment of pool balances and liabilities following the pool's dissolution.
- 2.3 Final proposals will need to be signed off by the s151 officers of each authority in the pool. A timetable is attached at Appendix A.
- 2.4 The Government reserves the right to refuse pooling proposals if there is for example an impact on the levy income needed to fund the safety net which affects the overall affordability of the rates retention scheme; or if proposals do not provide a strong, clear rationale for the proposed pool.
- 2.5 It is for local authorities to determine the geographic coverage of the pool as they will want to pool on a basis that best supports economic geography and the onus will be on the prospective pool authorities to produce a strong rationale to support their proposal.
- 2.6 Local authorities can withdraw from a designated pool before the pool comes into effect. Local authorities should be aware that once a designation has been made it cannot be amended so if a local authority chooses to exercise this option it will mean that the pool cannot continue.
- 2.7 Pools are voluntary and will continue from year to year until a designation is revoked.

## The Current Position

- 2.8** As a tariff authority not in a pool we are entitled to keep up to a maximum of 50% of our rates growth above target. The 2014/15 target for Selby DC was set at £16.661m. We are currently estimating to collect £17.237m (our 40% share). This means that we estimate there will be £626k to which the levy calculation for Selby would apply. Table 1 below, shows how this allocation is split.

Table1: Current allocation of business rates above target – no pool

	£'000	%	SDC Share £'000	Gov Share £'000
SDC target rates collectable	16,661			
SDC estimated rates collectable per NDR1	17,237			
Additional Rates above target	626			
Selby DC		50%	313	
Government Levy		50%		313

## The Proposal

- 2.9** The proposal is for Selby to join the existing LCR pool comprising the following councils:
- Bradford City Council
  - Calderdale Council
  - Harrogate Borough Council
  - Kirklees Council
  - Leeds City Council
  - Wakefield Council
  - City of York Council
- 2.10** The current LCR pool prospectus is attached at Appendix B and it is anticipated that should approval be given for Selby to join the pool, this would be extended to include Selby. The prospectus includes the governance arrangements of the pool including the treatment of gains and losses.
- 2.11** In simple terms the pool works on the principle that no council will be worse off than if they had not been part of the pool i.e. safety net payments, if required, will be funded by the additional retained levies

unless there is insufficient levies to cover the required payments. In such circumstances losses would be shared pro-rata to members 'spending baselines'.

- 2.12** Joining the LCR pool would reduce any DCLG levy payable by Selby – the levy rate of the LCR pool including Selby would be 0% (i.e. the pool as a whole is a 'top-up authority'), which based on the figures in Table 1 above, would negate Selby's levy. The impact of this is shown in Table 2.

Table 2: LCR Business Rates Pool

	£'000	%	SDC / Pool Share £'000	Gov Share £'000
SDC target rates collectable	16,611			
SDC estimated rates collectable per NDR1	17,237			
Additional Rates above target	626			
Selby DC		50%	313	
Pool		50%	313	
Government Levy		0%		0
<b>Totals</b>			<b>626</b>	<b>0</b>

- 2.13** If the proposal goes ahead, Selby would join the pool on 1<sup>st</sup> April 2015 and would begin contributing to the pool in 2015-16. The amount of levies that could be retained by the pool in 2015-16 is very difficult to predict at this stage, but early indications suggest that it could be in the region of £3.8m (of which £320k could be generated by Selby). Further financial modelling is being carried out to help inform any ultimate decision.

### **3. Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

- 3.1** The Council would be required to sign a formal legal agreement to join the LCR pool (see prospectus at Appendix B).

#### **Financial Issues**

- 3.2** As set out in the report.

#### **Impact Assessment**



### **3.3 Main risk areas for creating a business rates pool**

#### **3.3.1** In considering the proposal to join the LCR Business Rates Pool there are a number of risks which need considering:

- (a) Significant rateable value reductions of an authority within the pool could affect the finances of all members. This is mitigated by having provision for dissolution of the pool on an annual basis, such that any problem would then only be a one year difficulty. This shortfall would affect the Council's collection fund, but the Council would have the opportunity to plan how to manage this shortfall. In evaluating pool members, officers will seek to minimise this risk if possible. In Selby's case this is the most significant risk due to a number of very large ratepayers in Selby District, and could mean that the inclusion of Selby in the LCR pool is not desirable for other pool members.
- (b) Non-pooled Councils currently have a safety net below which the government has confirmed the level of business rates retained will not fall. For Selby DC this is £2.026m (92.5% of the estimated collectable to be retained by SDC of ££2.190m). The creation of a pool removes the safety net and therefore the pool carries the risk of safety net payments and relies on pool gains outweighing any safety net requirements. Should this risk materialise the scheme allows for dissolution of the pool on an annual basis limiting liability to one year. Overall the LCR pool is performing well and no existing members are at imminent risk of falling into a safety net situation.
- (c) One partner requesting dissolution would require the pool to be dissolved, risking disruption and reduced revenue retention for the remaining partners if not mitigated. However, any dissolution could not take place mid-year and governance arrangements specify the protocols for giving notice.

### **3.4 Main benefits for creating a business rates pool**

#### **3.4.1** The benefits to the Council of joining a business rates pool include:

- (a) Retains additional money in the Leeds City Region that would otherwise have been given back to central government in the form of a levy. The additional pool receipts are retained for distribution via the LCR Local Enterprise Partnership (LEP) Investment Fund.
- (b) The Government's intention in allowing pooling is that it provides local authorities with a mechanism to deliver and promote jobs & growth and to allow for investment decisions to support economic priorities. As a small council within the LCR, Selby's ability to influence distribution may be limited, although based upon past

experience of working with the LEPs, Selby has been able to lever funding into Selby District;

- (c) Encourages collaborative working across local authorities, rather than being constrained by administrative boundaries;
- (d) Allows the benefit from investment in economic growth to be shared across the wider area and helps local authorities to manage volatility in income by sharing fluctuations across budgets.

#### **4. Conclusion**

- 4.1** Based on the assessment to date, the indications are that joining the LCR Business Rates Pool would be beneficial for Selby and the City Region as a whole. However, further financial modelling is required and details of the legal agreement still need to be finalised before the end of October in order to submit an application to the Government.

#### **5. Background Documents**

None

##### **Contact Officer:**

Karen Iveson  
Executive Director (and s151)  
Selby District Council  
kiveson@selby.gov.uk

##### **Appendices:**

Appendix A – Timetable  
Appendix B – LCR Business Rates Pool Prospectus (current)

## Appendix A

### **Timetable – Key dates for joining the LCR Business Rates Pool**

2 October 2014	Presentation of proposals to Executive including if necessary, appropriate delegation to s151 Officer, Chief Exec & Leader for recommendation to Council on 24 October to proceed with Selby joining the Pool.
October 2014	Consideration by other LCR pool authorities
14 October 2013	(Subject to above) Recommendation to Council
31 October 2013	Submission of application new LCR Pool
1 November 2014 – 31 March 2015	At some point between these dates the Government will confirm agreement to the new LCR Pool.
1 April 2015	New LCR Pool commences operation



## LEEDS CITY REGION BUSINESS RATES POOL

### FINAL PROPOSAL – NOVEMBER 2012

#### 1. Membership and Rationale

- 1.1 Further to the Expression of Interest submitted on 27<sup>th</sup> July and follow up letter dated 10<sup>th</sup> September, the following local authorities within the Leeds City Region confirm that they wish to seek designation as a business rates pool under the arrangements set out in the Pooling Prospectus issued by the Department for Communities and Local Government in May 2012.

Bradford City Council  
Calderdale Council  
Harrogate Borough Council  
Kirklees Council  
Leeds City Council  
Wakefield Council  
City of York Council

- 1.2 We believe that the Leeds City Region Business Pool will help to stimulate the economy of the region and will have a positive impact upon adjacent areas. The City Region has recently agreed a City Deal with Government and the Deal includes a commitment from member authorities that the additional financial benefits of pooling will be used to support a City Region Investment Fund. The fund will give priority to projects that maximize GVA, create jobs and contribute to carbon reduction.

**2. Lead Authority**

2.1 The authorities making up the LCR Pool have agreed that Leeds City Council will act as lead authority for the Pool. The contact details are:



Mike Woods  
Principal Financial Manager  
Resources Directorate  
Leeds City Council  
LEEDS  
LS1 1UR  
Tel: 0113 395 1373  
E-mail: [mike.woods@leeds.gov.uk](mailto:mike.woods@leeds.gov.uk)


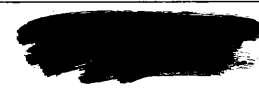
**3. Governance Arrangements**

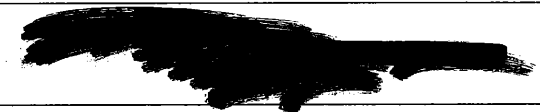

3.1 The governance arrangements for the LCR Pool are set in pages 5 to 8 of this proposal.



**4. Agreement and Sign Off**

4.1 This Pooling Proposal and the governance arrangements set out in pages 5 to 8 are agreed on behalf of each member of the Pool as follows:

<b>Bradford City Council</b>		
Name: Tony Reeves	Designation: Chief Executive	
Name: Stuart McKinnon-Evans	Designation: Director of Finance and S151 Officer	

<b>Calderdale Council</b>		
Name: Merran McRae	Designation: Chief Executive	
Name: Pete Smith	Designation: Head of Finance	

<b>Harrogate Borough Council</b>		
Name: Wallace Sampson	Designation: Chief Executive	
Name: John Sowden	Designation: Director of Resources	

<b>Kirklees Council</b>		
Name: Adrian Lythgo	Designation: Chief Executive	
Name: David Smith	Designation: Director of Resources	

<b>Leeds City Council</b>		
Name: Tom Riordan	Designation: Chief Executive	[REDACTED]
Name: Alan Gay	Designation: Director of Resources	[REDACTED]

<b>Wakefield Council</b>		
Name: Joanne Roney OBE	Designation: Chief Executive	[REDACTED]
Name: Judith Badger	Designation: Director of Finance and Property	[REDACTED]

<b>City of York Council</b>		
Name: Kersten England	Designation: Chief Executive	[REDACTED]
Name: Ian Floyd	Designation: Director of Customer & Business Support Services	[REDACTED]

Date: 9<sup>th</sup> November 2012



## LEEDS CITY REGION BUSINESS RATES POOL - GOVERNANCE ARRANGEMENTS

### 1 **Title**

1.1 The Leeds City Region Business Rates Pool.

### 2 **Membership**

2.1 Bradford City Council, Calderdale Council, Harrogate Borough Council, Kirklees Council, Leeds City Council, Wakefield Council and City of York Council.

### 3. **Commencement**

3.1 This governance document will come into force on 1<sup>st</sup> April 2013 and will continue until any one of the members formally leaves the Pool (see “Dissolving the Pool”, below).

### 4. **Rationale and Objectives**

4.1 The LCR Pool exists to benefit the individual members and to further the aims of the Leeds City Region as a whole as set out in the Regions City Deal “Unlocking our Economic Potential”.

4.2 The income received by the Pool will be shared out so that each member authority receives the same amount that they would if they were treated individually under the Business Rates Retention scheme. The only exception to this is set out in Section 8, below. Any excess income arising from reductions in levy payments will, after allowing for agreed expenses, be allocated to the Investment Fund established by the Leeds City Region. See City Deal for details.



4.3 Any variation to the arrangements set out in 4.2, above, will require the formal agreement of the Leadership Board.

## 5. **Leadership and Accountability**

5.1 The Pool will be led by a sub-committee of the Leeds City Region Leaders Board. The sub-committee will comprise of the leaders of the councils making up the Pool. The sub-committee shall be responsible for:

- any changes to the purposes for which the income received by the pool should be used, but the principle that no authority should receive less than they would if treated individually, shall be maintained;
- agreeing the expenses to be deducted by the lead authority administering the Pool;
- considering any applications for other councils to join the Pool;
- any variations to the membership of the Board; and
- any other matters relating to the administration and governance of the Pool including replacement of the lead authority.

5.2 For administrative convenience, the chair of the City Region Leaders Board will also act as chair of the City Region Pool sub-committee (but see 5.1 above).

5.3 The Leaders will meet as and when required but no less than twice each year. The meetings will be timed to coincide with those of the City Region Leaders Board (usually every two months).

5.4 The quorum for the meetings will be no less than 5 members. Leaders will be able to nominate substitutes.

5.5 Members will have equal voting rights and voting will be by simple majority. In the event of a tie, the chair of the meeting will have a casting vote.

5.6 The sub-committee will be supported by officers drawn from the lead authority.

5.7 The sub-committee may establish any sub-groups or any officer forums that they believe to be appropriate.

5.8 Minutes of the LCR Pool sub-committee meetings will be published on the LCR website.

## 6. **Lead Authority**

- 6.1 The initial lead authority responsible for the administration of the Pool shall be Leeds City Council.
- 6.2 The lead authority will normally act as such for a full year and may only be replaced at the year end. A lead authority wishing to relinquish the role at the year end must give a minimum of four months notice.
- 6.3 Each member of the Pool will be jointly and severally liable for any payments required to the Department for Communities and Local Government but, notwithstanding that, the lead authority will take responsibility for all matters in relation to the administration of the Pool including (but not limited to):
- all liaison with DCLG and other government departments including the completion of all forms and returns associated with the Pool;
  - administration of payments to and from the Pool and all calculations relating to the collection fund for the Pool;
  - producing an annual report showing how income has been distributed and preparing periodic monitoring reports for Pool members;
  - calculation of the costs of administering the Pool which are to be deducted from the rewards of the Pool. If the excess income generated by the Pool was insufficient to cover the administrative costs of the Pool in any year, then the shortfall would be shared between the Pool members in proportion to their spending baselines;
  - The lead authority will ensure that the pooling arrangements, annual reports and other financial information is published and is freely available on the LCR website or elsewhere as appropriate.

## 7. **Dissolving the Pool**

- 7.1 If any member decides to leave the Pool the regulations require that the Pool will be dissolved. Pools can only be dissolved at the end of a year.
- 7.2 Any authority seeking to leave the Pool should inform DCLG and all other members of the Pool as soon as possible. Once the Pool has been established, this must be by 30<sup>th</sup> September in any year, to allow the remaining members time to seek designation of new pool for the following year (see 7.4, below).
- 7.3 The Lead authority will make the necessary calculations and submit the required returns associated with the dissolving of the Pool.

7.4 The remaining members of the Pool may choose to form a new Pool and, if they wish, include new members for the following year (subject to new designation by DCLG).

**8. Treatment of Potential Losses in Income**

8.1 Authorities that suffer large reductions in business rates income from year to year (more than 7.5% to 10%, but subject to confirmation) will be entitled to safety net payments. If such an authority is a member of a business rates pool, the safety net payment could be lost because the *loss across the pool* may not be as much as the 7.5%/10% threshold. Indeed, if growth across the rest of the pool was weak, it could be that the loss of safety net payments could be greater than the amounts gained from paying reduced levies and the pool could be in deficit for the year.

8.2 Authority(s) that would otherwise have qualified for safety net(s) will have their share of pool proceeds calculated in a way to include what they would have received as a safety net payment. The loss in income to the Pool from the safety net(s) foregone in any year will be met from the income generated from other authorities within the pool not having to pay levies in that year. If that levy income is insufficient, then the net loss from the safety net foregone will be shared amongst all the members of the Pool (including those that would have otherwise qualified for a safety net payment) in proportion to their spending baselines for the year to which the safety net(s) would have applied.

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## Public Session

Report Reference Number C/14/11

Agenda Item No: 16

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<b>To:</b>	<b>Council</b>
<b>Date:</b>	<b>14 October 2014</b>
<b>Author:</b>	<b>Gillian Marshall Solicitor to the Council</b>
<b>Lead Officer:</b>	<b>Mary Weastell Chief Executive</b>
<b>Executive Member:</b>	<b>Councillor Mark Crane</b>

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### **Title: Review of the Constitution**

#### **Summary:**

This Report sets out the findings of the Audit Committee Review of the Constitution and the comments of the Executive on the findings. Council is asked to consider this report and the comments and to approve the recommendations subject to any changes the council wishes to make. It is recommended that most of the proposed changes be brought into force on 1 November 2014 except for those which need to take effect after the election in 2015 and which should take effect from the first AGM of the 2015/16 municipal year.

#### **Recommendations:**

- i. That recommendations 1 to 3, 6 to 9 and 11 to 15 contained within the Audit Committee Report into the Constitution be approved to take effect from 1 November 2014 (subject to any amendments made by Council at the meeting)**
- ii. That, subject to considering the Executive's proposal that the number of Councillors appointed to Planning Committee be set at 9 rather than 10, recommendations 1, 4, 5 and 6 be approved to take effect from the AGM in the 2015/16 municipal year.**
- iii. That Council note that the revised Executive Procedure Rules set out at Appendix 8 to the Audit Committee Report has been considered and agreed by the Executive and those amendments will take effect from 1 November 2014.**

- iv. **That delegated authority be given to the Chief Executive to amend the Contract Procedure Rules after consultation with the Leader and the Monitoring Officer and to report back to Council on the changes made.**

## **Reasons for recommendation**

- (i) To complete the work on the review of the Constitution requested by Council on 29 April 2014.

## **1. Introduction and background**

- 1.1 Audit Committee were 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 held three special meetings in June and July 2014 considering individual parts of the Constitution. The discussions and recommendations of the Committee have been brought together in one overall report which is attached at Appendix A
- 1.3 This report was considered by the Executive at their meeting on 2 October. The recommendations were accepted and are recommended to Council for approval save for one counter proposal set out in Section 2.2 below

## **2 The Report**

- 2.1 There are 16 recommendations in total arising from the Audit Committee Report together with 10 appendices containing revised versions of sections of the constitution. This covering report draws out the key matters.
- 2.2 Committee and Councillor Numbers  
The Audit Committee Report recommends that the number of councillors appointed to the Planning and Licensing Committees be set at 10 councillors. This is a reduction in the case of planning from 12 to 10 and is based on the statutory requirement for the minimum number of councillors on licensing to be set at 10.

However, the Executive recommend that the number of Councillors appointed to the Planning Committee be set at 9 rather than 10 in recognition of the fact that an even number of Councillors is more likely to result in the committee being deadlocked and decisions being made on the casting vote of the Chair.

- 2.3 The report also recommends retaining the 3 committees making up the overview and scrutiny function. Although the Audit Committee considered merging Overview and Scrutiny and Policy Review, they felt this was not the appropriate way forward given that one should be involved in policy development and the other should be scrutinising and reviewing policies once developed. They do however recommend reducing the numbers on each committee from 9 to 7 making a total of 21 councillors involved in overview and

scrutiny. They also felt that a combined committee would probably need more than nine members and therefore 2 committees would probably need a membership of 10 councillors each making a total of 20 councillors.

2.4 Other amendments proposed include those to meet legislative requirements to have a recorded vote on budget decisions and to meet requirements under the new Openness of Local Government Bodies Regulations 2014. These regulations require a greater range of officer decisions to be recorded and published in the interests of transparency as well as giving a right to the public to record and film at public meetings of the Council and Committees. To implement the regulations there is a proposed new definition of administrative or operational decisions which do not need to be recorded as well as a protocol covering recording and filming.

2.5 Delegation

Audit Committee felt that Part 3 of the constitution (responsibility for functions) struck the appropriate balance in decision making between councillors and officers. However Part 3 has been redrafted in terms of format and layout. There are also some additions by way of updating including setting out the existence of, and powers delegated to, a licensing sub-committee to make decisions on individual licence applications.

2.6 Substitute councillors – following advice Audit Committee recommend that a pool of substitute councillors should be appointed by the Council at the AGM for each committee. Each political group will be asked to nominate the pool of substitutes in the number that they consider appropriate for each committee.

2.7 The Executive were asked to consider 3 specific matters which fall within their remit

- whether the Executive Procedure Rules should be amended to incorporate the right of a non-member of the Executive to attend meetings and speak with the consent of the Leader to mirror the provisions for other committees and formalise existing practice
- that elements relating to the power to call in of executive decisions and rules relating to urgent decisions not on the forward plan should be included within the executive procedure rules rather than including elsewhere (in the overview and scrutiny and access to information rules). In this way there would be one comprehensive set of procedures governing executive processes.
- That the State of the Area address provided for in the Constitution is not the best method of ensuring the widest possible discussion and publicity for the issues facing and plans for the District. It could therefore be removed from the Constitution as a requirement and replaced with another method of communication.

The Executive were happy to accept those recommendations and they have been incorporated into the drafts in Appendix A.

### **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 procedures are a matter for the Executive to determine subject to compliance with the Local Government Act 2000.

#### **3.2 Financial Issues**

- 3.2.1 There are no financial issues arising from this report.

#### **3.3 Impact Assessment**

- 3.3.1 These changes have taken into account the drive for openness and transparency in national policy and meet the Council's Value of Building Trust by being open and accountable.
- 3.3.2 There are impacts for Councillors and their community/ward leadership roles in the proposals for the numbers of Committee and membership.

### **4. Conclusion**

- 4.1 That Council should consider the Audit Committee Report and approve any changes as set out in recommendations or amended as Council sees fit.

### **5. Background Documents**

None

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#### **Appendices:**

*Appendix A – Report of the Audit Committee into the Constitution*

2014

Report of the Audit Committee





# Report of the Audit Committee into the Constitution

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- Appendix 4 – Revised Council Procedure Rules
- Appendix 5 – Revised Access to Information Procedure Rules
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- Appendix 7 – Revised Officer Employment Procedure Rules
- Appendix 8 – Revised Executive Procedure Rules
- Appendix 9 – Draft Councillor Consultative Charter
- Appendix 10 – Draft Planning Code of Conduct
- Appendix 11 – Draft Licensing Code of Conduct
- Appendix 12 – Protocol on Audio/Visual Recording and Photography at Meetings

## Summary

On 29 April 2014 Council resolved to ask the Audit Committee to carry out a review of the Councils' constitution.

This review was carried out over three special meetings held in June and July 2014.

This report summarises the discussions held at the Audit Committee meetings and sets out our recommendations for amendments to the Constitution. Revised documents are included at appendices 1 to 10 for consideration.

Article 15 of the constitution provides that 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. Our review was supported by an Officer team including both the Chief Executive and the Monitoring Officer who was present during our meetings.

We therefore recommend the changes set out in this report for the reasons stated and, subject to the views of the Executive, ask Council to consider adopting them.

We consider that the majority of changes can take effect immediately and the constitution provides that that will occur at the next meeting of Council after any changes are approved unless any operative date is specified by Council. We would recommend that Council specify an operative date of 1 November 2014 except for those changes referred to in the paragraph below.

However, some of our recommendations relate to changes that will be required when the Council reduces in size from 41 elected Councillors to 31 elected Councillors after the 2015 election. Therefore some of our recommendations are intended to take effect from the first meeting of Council after the election and that is the operative date that we recommend.

## **The Review Brief**

In February 2014 the Executive held a development session in which it considered learning from the Executive model to date alongside the current constitution and particularly the decision making structures, delegations and scrutiny arrangements with a view to

- Ensuring that decision making is streamlined and efficient but still subject to proper controls
- Considering whether changes needed to be made to the constitution to facilitate the recent Local Government Boundary Review for Selby District and the new electoral arrangements which will take effect with a move to 31 Councillors in 2015.

As a result of the session an Action Plan was devised and, in a report to Council considered on 29 April 2014, the Chief Executive suggested that Audit Committee should undertake a review of the constitution before reporting back to the Executive who would consider the recommendations before reporting them to Council for consideration.

On 29 April 2014 Council resolved to ask the Audit Committee to conduct a review of the Constitution of the Council supported by an Officer team. The objective of the review is to ensure the Constitution is fit for purpose and supports the Council, the Executive and Officers to make decisions in the public interest in a timely and effective manner subject to proper controls.

The Officer team was made up of the Chief Executive, the Deputy Chief Executive/Monitoring Officer, the Democratic Services Manager and the Solicitor to the Council.

The Leader of Council gave a commitment to Council that all Councillors would be able to put forward suggestions for the review.

Other than that commitment it was for Audit Committee to conduct the Review as it thought fit.

## **Methodology**

On 14 May 2014 the Audit Committee considered a report setting out the background above and recommending that a methodology be established for conducting the review.

We considered whether the review was best carried out through a small Task and Finish Group or through the full Committee. After considering a range of views we resolved to conduct the review through special meetings of the full Committee. We recognised the breadth of the work that would need to be undertaken but considered that conducting the review in this manner would best meet the commitment given that all Councillors could be involved in the review, would ensure cross-party participation as the committee itself is politically balanced, and would give the required degree of transparency to such an important topic.

Accordingly, special meetings of the Committee were scheduled for 12 June and 14th and 29th of July 2014. It was agreed that the first meeting would concentrate on Part 4 of the constitution, the rules of procedure. It was also agreed that the second meeting would concentrate on the responsibility for functions under Part 3 and the final meeting would then look at the Codes and Protocols in Part 5 as well as any consequential amendments to Parts 1 and 2 and any other matters

Other councillors were notified of the review by an article in the Weekly Dispatch dated 16 May 2014 and were invited by e-mails dated 30 June and 22 July to put forward comments. All comments received were considered during the review.

## **The move to 31 Councillors in 2015**

From the 2015 election the new electoral arrangements for the Selby District will take effect. The new Council will consist of 31 elected Councillors rather than the current 41.

Throughout the review the Audit Committee kept in mind this reduction in councillor numbers when considering the number and membership of committees.

### Regulatory Committees

In relation to regulatory committees we were advised that there is a statutory minimum number required on the Licensing Committee. The Licensing Act 2003 sets the number of councillors on the committee at between 10 and 15.

Selby Licensing Committee currently consists of 10 councillors. There is therefore no scope to reduce councillor numbers on this committee.

We considered the number of councillors who should make up the Planning Committee after the election. We did not feel that the number of councillors on the Planning Committee should be less than the number of councillors on the Licensing Committee. We therefore recommend that the number of councillors making up the Planning Committee should reduce to 10 with effect from the 2015/6 municipal year.

### Overview and scrutiny function

The Council currently operates three committees which make up the overview and scrutiny function; Overview and Scrutiny, Policy Review and Audit Committees. We considered whether there was some scope for reducing the number of committees in view of the reduction in councillor numbers. We were advised that only the Overview and Scrutiny and Policy Review committees carry out statutory scrutiny functions. Audit Committee is not designated as an overview and scrutiny committee because such committees can only make recommendations rather than decisions and the Audit Committee is required to approve certain statutory documents such as the Annual Governance Statement.

We therefore considered whether the Overview and Scrutiny and Policy Review committees could be merged into one committee. We noted that this was the position in Hambleton District Council which is also reducing councillor numbers. However we were concerned that merging the two committees could result in a situation whereby the committee were involved in the development of policy through its Policy Review function which was then called in to be considered by the same committee under its Overview and Scrutiny function. We therefore felt that it was better to separate these two elements into different committees.

As a result we recommend that the three Overview and Scrutiny committees remain but that the number of Councillors on each of the committees should be reduced from 9 to 7 with effect from the 2015/6 municipal year.

## Legislative changes

During our review we considered the recent change requiring a recorded vote on budget decisions. The legislation requires an amendment to the Standing Orders as soon as practicable. For Selby this means an amendment to the Council procedure rules. We considered that the appropriate amendment to rule 19.4 would be:-

*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 5 of the Councillors present at the meeting demand that the votes are recorded.*

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

We also considered the draft Openness of Local Government Bodies Regulations 2014 which subsequently came into force on 6 August 2014. The regulations require the Council to permit reporting including recording, filming and blogging of Council meetings where the meeting is open to the public. The regulations also make provisions for the recording and publishing of officer decisions which we consider below.

In relation to the reporting requirements we considered that the appropriate approach was one of supporting the principle of openness, transparency and public participation through the mechanisms already available. However, the approach we should take is to permit recording or filming rather than actively encourage it. This is in recognition of the rights and freedoms of others not to be recorded and the absence of IT infrastructure to webcast the meetings as some councils do. Councils which already record and broadcast their meetings are better able to control the location of recording devices to respect the rights of others and ensure the material is not edited unfairly. The cost of installing such equipment is likely to be high.

We therefore recommend that a Protocol for the recording and filming of Council meetings is adopted and the draft protocol is included in this report Appendix 12 and it is recommended that this be included within Part 5 Codes and Protocols.

We believe that the protocol should include information for those who do not wish to be filmed and recorded as well as those who wish to undertake such activities. Chairs of meetings should be asked to make announcements at the start of each

meeting indicating that the meeting may be filmed or recorded. This information should also be on meeting agendas, on the Council website and by prominent notice at the entrance to the meeting.

This protocol is consistent with that used by the County Council in recognition that those reporting Council meetings are likely to be residents or journalists reporting in the North Yorkshire region and that a number of councillors are dual hatted.

On 6 August 2014 the Openness in Local Government Bodies Regulations 2014 came into force. Regulation 7 requires that all Officer decisions are published which are:-

- i. delegated specifically to the Officer; or
- ii. under any general delegation (as in the constitution) which
  - (a) grants a permission or licence) or
  - (b) affects the rights of an individual or
  - (c) incurs expenditure which materially affects the council's financial position.

The Regulations require that the decision is recorded "as soon as reasonably practicable" after the decision is made, and further published "as soon as reasonably practicable" after the record is made. Neither the regulations nor guidance specify any timescale beyond this.

The Local Authorities (Executive Arrangements) (Meetings and Access to Information Regulations) 2012 already provided a detailed set of requirements in relation to publicity preceding and recording after the fact of Executive decisions including Officer decisions. Together the two sets of regulations create a framework for the publication of significant Officer decisions in the interests of openness, transparency and accountability. Currently, only Officer decisions which are Key Decisions or made under a specific delegation from the Executive are recorded. The new regulations require us to widen our approach to the types of decisions which are recorded and published.

The approach to those additional decisions which need to now be recorded and published should build on the existing arrangements for recording and publishing Officer executive decisions, using a delegated decision notification form.

Rather than attempt to provide a list for Officers of which decisions do fall within the definitions in the new regulations and therefore need to be recorded it is proposed that the following definition be adopted within Article 13 (Decision Making) to widely define those which do not.



### **Administrative or Operational Decisions:-**

A decision in relation to a Council or Executive function which is not a Key decision and which;

- is within an approved budget; and
- is expenditure of less than £50 001; and
- is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- does not raise new issues of policy or otherwise affect the rights of an individual outside the confines of existing policy

It is considered that such a definition would ensure that significant decisions would be recorded and published in compliance with the regulations without compromising day to day service provision by unduly diverting resources from delivery to recording.

Finally, we noted that further legislative changes which affect the Council's Constitution might be brought into force using delegated powers given to the Secretary of State under the Local Audit and Accountability Act 2014. Under Part 3 - Responsibility for Functions we recommend that the remit of the Audit Committee be expanded to include audit and governance functions including responsibility for considering suggested amendments to the constitution. This will provide a route for any required changes to be considered before being referred to the Executive and Council for approval. The full terms of reference for such a revised committee are set out in Part 3 below.

## **Part 1 – Summary and Explanation**

Part 1 of the Constitution is the Summary and Explanation of the document. The changes we propose to Part 1 are consequential amendments based upon the recommendations explained in this report.

Part 1 includes a reference to the 41 Councillors who currently make up Council. Clearly after the 2015 election this provision will need to be updated to refer to 31 Councillors

We also propose that the reference to the deleted article 9 on the Standards Committee in the list of Articles should be replaced with reference to a new Article 9 on Standards Arrangements for the reasons set out below.

Other than that we do not propose any changes to Part 1.

A revised Part 1 is attached as **Appendix 1** with the further amendments proposed to take effect after the 2015 election shown in square brackets.

## **Part 2 – the Articles**

Part 2 of the Constitution contains the Articles which form the backbone of the Constitution. The Articles are those parts of the Constitution that cannot be suspended. Some minor amendments are required as a result of the changes proposed within this report.

At article 3.1 under the rights of the public reference will need to be made to the right to record a meeting and under (d) if it is agreed that State of the Area address is no longer necessary this section can be removed.

Article 4 contains a list of documents which form the Policy Framework. The final bullet point refers to plans and strategies which together constitute the Housing Investment Programme. Due to changes in housing finance rules there is no specific Housing Investment Programme. We noted that decisions relating to the housing revenue account would still come to full Council as part of the budgetary and policy framework. Given the lack of clarity about which documents would be considered to make up a Housing Investment Programme and the risks inherent in decisions being made by the 'wrong' part of the Council we recommend that this bullet point be removed.

Article 9 previously dealt with the Standards Committee. Council resolved to abolish the Standards Committee which ceased to operate on 30th June 2012. The Council adopted a new Code of Conduct as referred to in the Article. At the same time the Council approved new standards arrangements. It is therefore proposed that this article be re-titled Standards Arrangements and refer to the adopted Code of Conduct (as currently) and approved Standards Arrangements which would then be inserted into Part 5 under the Codes and Protocols section. This would comply with the legal requirement to have the standards arrangements set out in the constitution. No changes are proposed to the approved Standards Arrangements themselves.

In Article 12 we recommend that the list of Joint Committees be expanded to include the North Yorkshire Police and Crime Panel and the Leeds City Region Leaders' Board.

A draft revised Part 2 is attached to the consideration at Appendix 2.

## **Part 3 – Responsibility for Functions**

We discussed Part 3 during our second meeting. We were advised that Part 3 of the Constitution is intended to comply with the legal duty to maintain an up-to-date record of which part of the Council or which individual has responsibility for particular decisions.

Understanding who has the authority to make decisions, and in respect of what matters and the limits and controls that apply, is fundamental to ensuring that the Council acts lawfully. A decision made by a committee or person without delegated authority is ultra-vires and subject to challenge.

Understanding the scheme of delegation is also fundamental to the proper working of executive structures. It helps to identify those Councillors, Committees and Officers responsible for putting matters onto the forward plan, making decision, for proposing and approving policy and for scrutinising decision making.

Our considerations therefore focussed on ensuring that the Selby District Council scheme of delegation in Part 3 was clear and understandable.

We noted that under the Local Government Act 1972 (section 101) a local authority may make decisions as one corporate body or may delegate functions powers and duties to a committee, subcommittee or to an officer. Executive arrangements are overlaid onto this existing structure. Once executive arrangements are in place the law sets out a hard split for the functions between the executive and the rest of the Council. This split is established by exception and the default position is that every function of the local authority is an executive function unless it is specified in law that it is not. These exceptions are listed in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time.

The regulations divide functions into three types; Council functions (which are not be the responsibility of the executive) local choice functions (where the Council has a discretion whether to exercise them via the executive or Council) and shared functions (being the formulation and adoption of the budget and policy framework). Essentially full Council is responsible for (and can in most circumstances delegate functions relating to) electing and removing the leader, approving the budget, setting Council tax, approving the plans in the strategic policy framework, elections, planning, licensing, staff, scrutiny of decisions taken by the executive and the standards of conduct of councillors. All other functions are Executive functions (Selby has previously chosen to designate the local choice functions as Executive functions).

The policies in the budgetary and policy framework are subject to a required process involving both the Executive and Overview and Scrutiny before final approval by full Council (the Budgetary and Policy Framework Rules). All other matters are, by

default, executive functions but the Executive (and Officers) must exercise the functions in accordance with the budgetary and policy framework. If the Executive (or an Officer) proposes an action not in accordance with the framework it requires the consent of the full Council.

We considered that Part 3 generally struck the appropriate balance of powers but clarity could be improved by reflecting the source of the delegation (Executive or Council) and by including powers delegated to Business Managers and Lead Officers which are currently in a sub-delegation scheme.

This would make it easier for the non-Executive councillors and the public to track who is making decisions about what within the Council. It will also help in relation to the new requirements to record and publish officer decision making under the new Openness Regulations.

Further, in relation to functions delegated to committees, we noted that the regulatory committees (planning and licensing) derived their terms of reference from the Council through the list of functions which were not to be the responsibility of the executive. Officers considered the existing terms of reference against the current list. The existing approach is to list those functions set out in the regulations individually within the terms of reference. An alternative approach is proposed which cross-references to the regulations and therefore will not need amending each time the regulations are updated. Of course, should be regulations be repealed or fundamentally overhauled then a check will still need to be made to ensure that our delegations accurately reflect the law. It is also recommended that this is checked annually for the Council AGM.

In relation to licensing it was noted that the full range of functions under the Licensing Act 2003 and the Gambling Act 2005 are not currently listed. The approach taken above will resolve that situation which has occurred due to updates in the regulations that have not been reflected in our Part 3.

Further, many of the functions under those Acts are actually carried out through a subcommittee of the Licensing Committee. It is therefore considered the reference should be made in the constitution to the creation of a Licensing Subcommittee to carry out those functions.

In relation to overview and scrutiny functions we considered whether the functions could be combined into fewer committees but decided against recommending this for the reasons set out above.

A revised Part 3 for consideration is included as [Appendix 3](#).

## **Part 4 Rules of Procedure**

We considered the Rules of Procedure set out within Part 4 of the constitution in some detail in our second meeting. Our consideration and recommendations are summarised below.

### Council Procedure Rules

We consider that the number of councillors needed to sign a requisition for an extraordinary meeting should be reduced pro rata with the reduction in councillor numbers to 4.

We discussed the requirement for the quorum to be one quarter of the whole number of the committee and how that would operate if numbers on each committee were reduced. The potential for decisions to be made by a small number of councillors was noted. Rule 8 provides for the minimum quorum to be two voting councillors. As the chair has a casting vote this would always allow the chair's view to prevail.

We therefore consider that the minimum quorum for any committee should be set at 3 rather than 2.

We discussed the provisions for questions by councillors at meetings both with and without notice. On questions without notice 10 minutes is allowed to respond to each question and any related supplementary question. No time limit is set for questions on notice. One supplementary question is permitted.

Rule 11.5 permits a direct oral answer, a reference to the desired information in a publication or where the reply cannot conveniently be given orally, a written answer circulated later to all Councillors. Following advice from the Solicitor to the Council we agreed that rule 11.5 should be amended to make it clear that these options for responding were available in response to both questions with and without notice.

We discussed the provisions relating to the State of the Area Address. It was noted that there was no legal requirement for such an address. We considered whether the address assisted in setting out the issues and plans for the district and meeting the stated aim of ensuring the widest possible public discussion and publicity. The view of the Audit Committee was that the State of the Area Address did not achieve that aim in a manner proportionate to the resources expended. It was suggested that the views of the Leader and the Executive should be sought on whether the State of the Area Address should continue in its current form.

The provisions in CPR 18 require seven individual councillors to sign a motion and in CPR 19.4 for six councillors to demand a recorded vote. We consider these limits should be reduced proportionately with the reduction in councillor numbers from May 2015 to 5 councillors in all cases.

We discussed the appointment of substitute members to Committees. Advice was given that substitutes should be appointed by the Council and that the conventional way of dealing with this was for the Council to appoint members to a pool of substitutes for each Committee or group of Committees. A Councillor unable to attend the meeting would then consult his/her group colleagues in that pool to identify a suitable substitute.

We were also advised that a Councillor who is being substituted should inform Democratic Services prior to the meeting commencing that he/she is unable to attend and the named substitute. Once the meeting commences the substitute takes the place of the Councillor and exercises the rights set out in CPR 28. The original Councillor may not then join the meeting part way through. It was noted that these arrangements are in place at NYCC.

We therefore recommend that from the Annual Council meeting in 2015 pools of substitutes should be appointed for each committee at the AGM and that it should be up to the group to determine how big each pool should be and the membership, provided that they notified Democratic Services of the names in advance of the AGM.

We discussed the right of non-members of committees to attend meetings and speak with the Chairs consent under CPR 29. It was noted that there is no corresponding provision in the Executive Procedure Rules although there were examples of where the Leader had allowed non-executive councillors and the public to speak. Officers were asked to seek the views of the Executive in relation to incorporating such a provision in relation to meetings of the Executive to formalise the practice.

A revised draft of the Council Procedure Rules which incorporates the changes we recommend immediately is attached at [Appendix 4](#) with the further amendments proposed to take effect after the 2015 election shown in square brackets.

#### Access to Information Procedure Rules

We noted that the requirements for public access to meetings and papers were set by the Local Government Act 1972 and regulations made under it. Our rules constituted the scheme which the Council is required to publish in relation to public access and must be consistent with the law.

An alternative format of the same rules from another Council was provided to us for consideration as it was considered to be a more user-friendly example.

Subsequently a revised draft on those lines was considered and approved at our second meeting and is attached as [Appendix 5](#). This should be read in conjunction with the Protocol on Audio/Visual Recording and Photography at Meetings in [Appendix 12](#).

The revised draft includes the rights of councillors to information and references to statutory rights under the Freedom of Information Act and the Environmental Information Regulations.

### Overview and Scrutiny Procedure Rules

A general view was expressed that the success of overview and scrutiny functions generally in holding the officers and the Executive to account, depended in part on being aware of decisions likely to be made and policies being reviewed. We expressed the opinion that the forward plan should be more prominent in council business generally.

We also consider that the support to the scrutiny committees should be reviewed to ensure that the officers supporting the committees are not those responsible for the decisions or recommendations to the Executive, to ensure the correct degree of independence for the scrutiny function. Although the committee members had never been refused access to senior officers, we felt that officers who attended were not always of the appropriate level of seniority.

We discussed the work programme and the requirement for that to be approved by the Council. It was noted that although Council did approve a work programme annually, the actual work of the committees varied considerably from the approved program as items were added to or removed from the agenda based upon current priorities.

We therefore consider that the requirement to have the work programme approved is unnecessary and bureaucratic.

A revised draft of the Overview and Scrutiny Procedure Rules is attached for consideration by the Executive and Council at [Appendix 6](#).

### Officer Employment Procedure Rules

The requirement to appoint on merit was discussed and we agreed that it should be moved to the beginning of the rules for greater prominence. A revised draft of the Rules is attached for consideration at [Appendix 7](#).

### Petitions Procedure Rules

We discussed the removal of the legal requirement to allow petitions and the other ways in which the public could engage with the Council meeting including correspondence to the Council, public question time as well as the community engagement forums. We considered whether allowing deputations as opposed to petitions would be of benefit.

On balance we felt that the petitions procedures allowed a mechanism whereby a significant number of people who were interested in a particular matter could raise it with the Council and show the strength of public opinion. We therefore decided to



recommend no changes to the rules regarding correspondence, public question time and petitions.

#### Contract Procedure Rules

In the light of proposed amendments to European procurement regulations it was agreed not to consider the Contract Procedure Rules at this time but to recommend giving a specific delegated authority to officers to amend the rules at the time that the regulations are brought into force.

#### Financial Procedure Rules

It was agreed that, in light of the view of the s151 Officer that the financial procedure rules were fit for purpose, that no amendments will be proposed to these rules.

#### Community Engagement Forum Procedure Rules

It was agreed to defer consideration of the rules pending a review of the Community Engagement Forums. Revised rules should be drafted for approval at the same time that any changes to CEF arrangements are approved by Council.

#### Budgetary and Policy Framework Procedure Rules

The rules, which set out the framework within which the Executive and officers exercising delegated powers make decisions, were discussed. We felt that together with an effective Scrutiny function these rules represented appropriate checks and balances on decision making. No amendments were proposed.

#### Executive Procedure Rules

We debated the Executive Procedure Rules and the available models for an executive structure. It was noted that the executive arrangements were for the Leader to determine. However the committee considered that it could legitimately seek the Leader's views on any proposals to amend the arrangements and report to Council on those.

In that respect it was noted that a non-member of the Executive had the right to attend the meeting but not speak whereas for other Committees there was a right to speak with the permission of the Chair. It was agreed that the views of the Leader should be sought in relation to this matter as he had previously allowed such speaking even in the absence of a specific 'right'.

Finally, during our work looking at Part 3 and Part 5, we noted elements relating to executive decision making around the power of call- in and urgent decision making that could equally be located within the executive procedure rules. This would clarify how the executive system with its checks and balances is intended to operate. No

changes are proposed but instead it is suggested that revised Executive Procedure Rules as set out at Appendix 8 be adopted to consolidate these provisions.

## **Part 5 – Codes and Protocols**

Part 5 of the Constitution sets out the Codes and Protocols currently in operation at Selby District Council.

No amendments are proposed to the Code of Conduct for Councillors as this was reviewed in 2012 and the Monitoring officer confirmed he considers that it operates satisfactorily.

No amendments are proposed to the Protocol on Councillor/Officer Relations. However, a new Councillor Consultative Charter is proposed which sets out how the Council will involve and consult Councillors. The draft appears at [Appendix 9](#) for consideration.

Significant changes are proposed to the Code of Practice for Planning by replacing existing pages 187 to 223 with the attached [Appendix 10](#). This document takes into account the latest advice and model wording. The Chair of Planning attended our meeting and confirmed that he considered the draft document to be fit for purpose and an improvement in terms of clarity on the existing provisions which were out of date and, in places inconsistent.

We then considered whether there should be a Licensing Code of Practice given that both Planning and Licensing are regulatory functions involving the determination of an application and the balancing of competing rights. We were provided with a sample Code in use at another Council and consider that such a Code could be helpful. The views of the Licensing Committee were sought on the draft Code at their meeting on 8 September and no objections or amendments were made.

## **Parts 6 and 7**

Part 6 of the Constitution is the Councillors Allowance Scheme. Amendments to the scheme require a report from an Independent Remuneration Panel. No amendments are proposed at this time.

Part 7 contains a description of the approved management structure. This will be checked against the latest information from HR and brought up to date.

## Conclusions and Recommendations

The Selby District Council Constitution is generally fit for purpose. It does require some updating to reflect legislative changes that have been made since it was last reviewed.

Our recommendations on the whole are minor and designed for clarity and transparency and in the interests of good and lawful decision making.

We have considered the implications of the reduction in councillor numbers to 31 elected Councillors in 2015. We saw little scope to reduce the number of Committees. We considered whether the Overview and Scrutiny and Policy Review committees could be merged. However we consider that each has a distinct role and that merging them might create problems whereby one committee was involved in both the development of policy and its oversight through the call-in process. We also felt that a merged committee would require additional councillors to be appointed meaning the actual number of councillors involved would not be much greater if we retain two separate but smaller committees rather than moving to one larger committee. We therefore recommend retaining three overview and scrutiny committees as under the current arrangements with the numbers appointed to each committee reduced to 7 councillors. We also noted that the Licensing Committee was subject to a minimum number of 10 councillors set out in legislation. We consider that the Planning Committee and the Licensing Committee should be the same size and so we recommend that the numbers on each of these committees be set at 10 councillors with effect from the 2015 election.

We have not recommended any changes to the terms of reference for Community Engagement Forums nor to the procedure rules which support the forums. We consider the both of these are best addressed as part of the review of forums currently being undertaken.

We've also not recommended any changes to the Contract Procedure Rules. We note that amendments will be required to reflect changes following amended European regulations but we do not yet know when these will be brought into force in English law.

We therefore recommend that delegated authority be given to the Chief Executive after consultation with the Leader of Council and the Monitoring Officer to amend the Contract Procedure Rules and report back to Council on the changes made.

Our recommendations are set out in the table below: –

<b>Number</b>	<b>Recommendation</b>	<b>Appendix</b>
1	That the revised Part 1 of the Constitution as set out in Appendix 1 be approved to take effect from 1 November 2014 with the further amendments proposed to take effect after the 2015 election shown in square brackets.	Appendix 1
2	That the revised Articles of the Constitution as set out in Appendix 2 be approved to take effect from 1 November 2014.	Appendix 2
3	That the revised scheme of delegation forming Part 3 of the Constitution as set out in Appendix 3 be approved to take effect from 1 November 2014.	Appendix 3
4	That the appropriate number of Councillors to be appointed to each of the Planning and Licensing Committees for the municipal year 2015/16 be set at 10 and that the Monitoring Officer be authorised to amend the Constitution from the start of the municipal year to reflect that decision	None
5	That the appropriate number of Councillors to be appointed to each of the Overview and Scrutiny Committees for the municipal year 2015/16 be set at 7 and that the Monitoring Officer be authorised to amend the Constitution from the start of the municipal year to reflect that decision	None
6	That the revised Council Procedure Rules as set out in Appendix 4 be approved to take effect from 1 November 2014 with the further amendments proposed to take effect after the 2015 election shown in square brackets.	Appendix 4
7	That the revised Access to Information Procedure Rules including a Protocol on Filming and Recording at Council Meetings as set out in Appendix 5 be approved to take effect from 1 November 2014.	Appendix 5
8	That the revised Overview and Scrutiny Procedure Rules as set out in Appendix 6 be approved to take effect from 1 November 2014.	Appendix 6
9	That the revised Officer Employment Procedure Rules as set out in Appendix 7 be approved to take effect from 1 November 2014.	Appendix 7
10	That the Executive consider the draft Executive Procedure Rules as set out in Appendix 8 and provide comments on the	Appendix 8

	draft so that changes can be incorporated into the final recommendations to Council	
11	That the Councillor Consultative Charter attached as Appendix 9 be added to Part 5 – Codes and Protocols to take effect from 1 November 2014.	Appendix 9
12	That the Standards Arrangements approved in 2012 be added to Part 5 – Codes and Protocols	None
13	That the revised Planning Code of Practice at Appendix 10 be added to Part 5 – Codes and Protocols to take effect from 1 November 2014	Appendix 10
14	That the Licensing Code of Practice at Appendix 11 be added to Part 5 of the Constitution	Appendix 11
15	That the Protocol for Audio/Visual Recording and Photography at Meetings at Appendix 12 be added to Part 5 of the Constitution	Appendix 12
15	That the Chief Executive be given delegated authority after consultation with the Leader of Council and the Monitoring Officer to amend the Contract Procedure Rules and report back to Council on the changes made.	None

# APPENDIX 1





## Council Constitution

Selby District Council has approved a new Constitution which 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 explains the purpose of the Constitution and pledges that the Council will exercise all its powers and duties in accordance with the law and the Constitution. Articles 2 to 16 explain the rights which the public have and how the key parts of the Council operate. These are:

- Councillors (Article 2).
- The Public and the Council (Article 3).
- The Council (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny Committees (Article 6).
- The Executive (Article 7).
- Regulatory and other committees (Article 8).
- Standards Arrangements (Article 9).
- Community Engagement Forums (Article 10).
- Officers (Article 11).
- Joint Arrangements (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 41<sup>[31]</sup> councillors elected once every 4 years. 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 follow a code of conduct to ensure high standards in the way they undertake their duties.

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 elects a Leader and the Leader appoints between 2

and 9 other councillors to act as Executive Members. The Council ensures that the Leader and Executive act in accordance with the Budget and Policy Framework established by the Council and holds them to account for the executive decisions which they take.

### **How decisions are made**

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader who is elected by the Council and an Executive of between 2 and 9 other councillors whom the Leader 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.

Many decisions will be made by Officers exercising delegated powers. Where these meet certain criteria these must be recorded and published in the interests of openness and transparency. Further details on these requirements can be found in Article 13.

### **Overview and scrutiny**

There are 3 overview and scrutiny committees who support the work of the Executive and the Council as a whole. They allow the public to have a greater say in Council matters by holding inquiries in public into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council on its policies, budget and service delivery. The Scrutiny Committee also monitors the decisions of the Executive and 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 reconsiders the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

### **Community Engagement Forums**

In order to give the public a greater say in council affairs, 5 Community Engagement Forums have been created. Their role is to influence how services are planned and delivered in their area, contribute to identifying and implementing solutions to address local concerns and to contribute to setting the priorities of those authorities, agencies and organisations which deliver public services in the area. Community Engagement Forums are open to the public and each is supported by a partnership board which involves district, county and some town and parish councillors, co-opted community representatives and partner organisations.

### **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 protocol governs the relationships between officers and members of the Council.

### **The Public's rights**

Members of the public 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.

The public have a 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;
- film and record meetings of the Council, the Executive and Committees which are open to the public;
- petition, including the right to petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations when invited to do so 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 the Executive except where the report and background papers are exempt under the Access to Information Procedure Rules;
- complain to the Council about matters which are the Council's responsibility;
- complain to the Local Government 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 Monitoring Officer 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.



## APPENDIX 2



## **PART 2 - ARTICLES OF THE CONSTITUTION**

### **Article 1 – The Constitution**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Selby District Council.

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to

- (a) Regulate and guide the proper conduct and better operation of the Council's business.
- (b) Enable the Council to provide clear leadership in partnership with the community, businesses and other organisations.
- (c) Support the active involvement of the community in the process of local authority decision-making.
- (d) Help councillors represent their constituents more effectively.
- (e) Enable decisions to be taken efficiently and effectively.
- (f) Create a powerful and effective means of holding decision-makers to public account.
- (g) Ensure that no councillor will review or scrutinise a decision in which they were directly involved.
- (h) Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions.
- (i) Provide a means of improving the delivery of services to the community.
- (j) Ensure the highest standard of conduct from councillors and Council employees.

#### **1.4 Interpretation and review of the Constitution**

Where the Constitution permits the Council to choose between different



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

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

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## Article 2 – Councillors

### 2.1 Composition and eligibility

- (a) **Composition.** The Council comprises 41 [31] members, otherwise called councillors.

One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the relevant authorities and approved by the Secretary of State.

- (b) **Eligibility.** Only registered voters of the District or those living or working there will be eligible to hold the office of councillor.

### 2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every 4 years beginning in 2011, unless the date of the election is changed, by Order. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.3 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:

- (i) collectively determine the policies of the Council as set out in the policy framework;
- (ii) contribute to the good governance of the area and actively encourage community participation and involvement in decision-making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond (fairly and impartially) to constituents' enquiries and representations;
- (v) participate in the governance of the Council;
- (vi) maintain the highest standards of conduct and ethics; and
- (vii) champion the causes which best relate to the issues and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of the social, economic and environmental interests of the area.

- (b) **Rights and duties**

- (i) Councillors will have such rights of access to 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 Procedure Rules in Part 4 of this Constitution.

#### **2.4 Conduct**

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

#### **2.5 Allowances**

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

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## Article 3 – The Public and the Council

### 3.1 The rights of the public

In general, the public has the following rights to information and to participation, which are explained in more detail in Part 4 of this Constitution in the Access to Information Procedure Rules:

- (a) To vote if their name appears on the electoral roll for the District.
- (b) To attend meetings of the Council, its committees and the Executive, and to film or record those meetings except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private.
- (c) To inspect the Executive's Forward Plan to ascertain when key decisions are likely to be made.
- (d) To have access to agendas, reports, minutes and background papers in relation to meetings which are open to the public, except where confidential or exempt information is being discussed.
- (e) To inspect the Council's accounts at the designated times and make views known to the external auditor.

In addition the public may from time to time:

- (a) Be consulted about the Council's plans and strategies, particularly those contained in the policy framework.
- (b) Participate in the Council's Question Time (see section 10 of the Council Procedure Rules Part 4 in this Constitution).
- (c) Be invited to contribute to the work of the Overview and Scrutiny Committees.
- (d) Comment on the annual State of the Area Address given by the Council Leader.
- (e) Petition the Council in accordance with any statutory or local provisions which may be in force at the time and, in particular with the Council's Petitions Procedure Rules set out in Part 4 of this Constitution.
- (f) Petition to request a referendum for a mayoral form of executive, if their name is on the electoral roll.
- (g) Participate by way of public speaking at the Planning Committee.
- (h) Inspect this Constitution and obtain a copy on payment of an

appropriate charge.

- (i) Attend Community Engagement Forums and contribute to the Community Section of the meeting.

From time to time members of the public may think the Council has made a mistake or has caused some injustice. They have the right to:

- (a) Complain to the Council about any of its services in accordance with the complaints procedure, which shall be freely available to them on request.
- (b) Complain to the Local Government Ombudsman if they think the Council is responsible for maladministration or injustice, but only after they have followed the Council's complaints procedure.
- (c) Complain to the Council's Monitoring Officer if they consider that a councillor has not followed the Council's Code of Conduct for Councillors.

### **3.2 Responsibilities of the public**

Members of the public also have responsibilities. They must not be violent, abusive or threatening to councillors or to officers of the Council. They must not wilfully harm or damage things owned by the Council, councillors or officers. They must obey the procedural directions of the Chair of any committee or Council or Executive meeting, if attending that meeting.

## Article 4 – The Council

### 4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Sustainable Community Strategy
  - Corporate Plan
  - Community Safety Partnership Plan
  - Asset Management Strategy
  - Plans and strategies which together comprise the Local Development Framework
  - Plans and strategies which together comprise the Housing Investment Programme
- (b) **Budget.** The budget includes the allocation of financial resources to different functions, services and projects, established or proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's investments, borrowing requirement, the control of its capital or revenue 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.

### 4.2 Functions of the Council

Only the Council will exercise the following functions:

- (a) Electing the Chairman and appointing the Vice-Chairman of the Council.
- (b) Approving, adopting or amending this Constitution unless this has been delegated.
- (c) Approving, adopting or amending the Policy Framework or the Budget and any application to the Secretary of State in respect of any Housing Land Transfer.
- (d) 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 Executive is minded to make it in a manner which would be contrary

to/or not wholly in accordance with the Policy Framework and/or the budget.

- (e) Electing the Leader of the Council.
- (f) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them including the Chair and Vice-Chair save that the Chief Executive has delegated authority to make amendments or changes, after consultation with the relevant Group Leader, provided such changes preserve the proper political balance of the committee.
- (g) Appointing representatives to outside bodies unless the appointment is to a body exercising an Executive function or has been delegated by the Council.
- (h) Adopting a Councillors' Allowances Scheme under Article 2.5.
- (i) Changing the name of the District.
- (j) Conferring the title of Honorary Alderman.
- (k) Confirming the appointment of the Head of Paid Service.
- (l) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- (m) Any local choice functions which the Council decides should be undertaken by itself rather than the Executive.
- ~~(n) Approving the work programme of committees.~~
- ~~(no) Adopting the Council's Codes of Conduct.~~
- ~~(op) All other matters which, by law, must be reserved to the Council.~~

#### **4.3 Council meetings**

There are three types of Council meeting:

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

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

#### **4.4 Responsibility for functions**

Except where expressly prohibited by legislation the Council may delegate its functions.

The Council will maintain Part 3 of this Constitution setting out how it has delegated the responsibilities for the Council's functions.

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## **Article 5 – Chairing the Council**

### **5.1 Role and function of the Chairman**

The Chairman of the Council and in his/her absence, the Vice-Chairman, will have the following roles and functions:

### **5.2 Chairing the Council meeting**

The Chairman will be elected by the Council annually at the Annual Meeting in May. The Chairman will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of all councillors and the interests of the whole community;
- (c) to ensure that the Council meeting is a forum to debate matters of concern to the local community and the place at which councillors who are not on the Executive are able to hold the Executive Members and committee and sub-committee Chairs to account; and
- (d) to promote public involvement in the Council's activities.

### **5.3 Ceremonial role**

The Chairman will act as the Council's first citizen, promote the Council as a whole, and attend such civic and ceremonial functions as the Council and he/she may decide.

## **Article 6 - Overview and Scrutiny Committees**

### **6.1 Appointment and Purpose**

The Council will appoint 3 committees to support its Overview and Scrutiny activities. Only the Policy Review Committee and the Scrutiny Committee will discharge the Council's statutory overview and scrutiny functions. The three Committees shall be:

- 1) The Policy Review Committee (to contribute to the development of new Council policy and review the effectiveness of existing Council policy);
- 2) The Scrutiny Committee (to scrutinise decisions and performance and help hold the Leader and Executive to account); and
- 3) The Audit Committee (to scrutinise and monitor the Council's control systems, procedures and risk management systems)

Each of the 3 Committees will comprise a Chair and Vice Chair appointed by the Council and no more than 7 [5] other councillors appointed by the Council in accordance with the political balance rules. No Executive Member shall be a member of any of the three Committees nor any sub-committees undertaking overview and scrutiny functions.

### **6.2 General roles**

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

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any functions;
- (b) make reports and/or recommendations to the Council and/or the Executive in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any policy committee or Community Engagement Forum.

In pursuance of their agreed individual annual work programme and allocated budget they may also:

- (a) assist the Council and the Executive in the development of the budget and policy framework by in-depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;

- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question Members of the Executive and senior officers (defined as Directors and above) about their views on issues and proposals affecting the area; and
- (e) 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;
- (f) review and scrutinise the decisions made by the Executive and council officers both in relation to individual decisions and over time;
- (g) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (h) question Members of the Executive and senior 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;
- (i) make recommendations to the Executive and/or appropriate committees or the Council arising from the outcome of the scrutiny process;
- (j) 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
- (k) question and gather evidence from any person (with their consent).

**Finance.** Overview and scrutiny committees shall exercise overall responsibility for the finances made available to them.

**Annual Report and Work Programme.** Each overview and scrutiny committee shall prepare an Annual Report reviewing its past work and an Annual Work Programme making clear recommendations about its work for the year ahead and shall submit that programme each year for approval by the Council. Each overview and scrutiny committee shall consult the Leader and Executive on the content of their draft annual work programme and consider their views before submitting the work programme for Council approval.

**Officers.** Overview and scrutiny committees may exercise overall responsibility for the work of the officers employed to support the

Committees in delivering their approved annual work programmes.

**6.3 Proceedings of overview and scrutiny 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.

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## **Article 7 - The Executive**

### **7.1 Role**

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

The Executive shall discharge those functions in accordance with the Executive Procedure Rules in Part 4 of this Constitution.

### **7.2 Form and composition**

The Executive will comply with the Leader and Cabinet Executive (England) model.

The Executive will consist of the Leader together with at least 2 but no more than 9 other councillors appointed to the Executive by the Leader. The Leader may from time to time amend the precise form and composition of the Executive and may also allocate areas of responsibility and decision-making powers to the Executive and to individual Executive Members.

### **7.3 Leader of the Executive**

The Leader shall be a councillor elected to that office by a simple majority of the Council.

The Leader will hold office for a term of 4 years unless he/she:

- (a) resigns from the office of Leader; or
- (b) resigns from the Council; or
- (c) is suspended from being a councillor under Part III of the Local Government Act 2000;
- (d) is removed from office by a resolution of the Council tabled as a motion in accordance with Rule 13 of the Council Procedure Rules; or
- (e) is otherwise disqualified from holding the office of councillor.

### **7.4 Executive Members**

The Leader of the Council shall appoint from the general body of councillors the Members of the Executive. The Leader shall also appoint one of the Executive Members as Deputy Leader who shall take on, on a temporary basis, the duties of Leader if the Leader is unable to carry out those duties from time to time.

Members of the Executive, other than the Leader, but including the Deputy

Leader, shall normally hold office for a term of 2 years unless they:

- (a) resign from the office of Executive Member; or
- (b) resign from the Council; or
- (c) are suspended from being a councillor under Part III of the Local Government Act 2000; or
- (d) are removed from office by written notice to that effect from the Leader, who shall immediately give notice of the removal to the Chief Executive and also report the reasons for the removal to the next meeting of the Council - the removal will take effect on the date the notice is given to the Chief Executive; or
- (e) are otherwise disqualified from holding the office of councillor.

#### **7.5 Term of Office of replacement Leader or Executive Member**

Where the Leader or a Member of the Executive ceases to hold office other than by the normal expiry of their term of appointment, any replacement shall be elected or appointed (as necessary) to hold office subject to the rules under paragraph 7.4 (a) (b) (c) and (e).

#### **7.6 Proceedings of the Executive**

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

The Leader is responsible for the Executive functions as defined in this Constitution and will ensure that they are maintained, reviewed and updated as necessary to ensure that proper arrangements are in place for the discharge of those functions.

#### **7.7 Delegation of Executive functions to the Chief Executive**

If neither the Leader nor the Deputy Leader can act the Executive functions shall devolve to the Chief Executive for a month or until the next meeting of the Council at which a new Leader is elected, whichever is the shorter. If the Council meeting fails to elect a new Leader then the powers devolved to the Chief Executive will continue for another month on the same terms.

## **Article 8 – Regulatory and other committees**

### **8.1 Regulatory and other committees<sup>1</sup>**

These committees are appointed to carry out functions that are reserved to the Council and their duties shall not be delegated to the Executive or any individual Executive Member.

The Council will appoint the following regulatory and other committees. The responsibility for Council functions assigned to each committee is set out in Part 3 of this Constitution:

Planning Committee  
Licensing and Appeals Committee

### **8.2 Other Committees**

The Council will appoint the Access Selby Board with the responsibilities set out in Part 3 Section 5 of this Constitution.

The Council will appoint an Audit Committee with the responsibilities set out in Part 3 Section 6 of this Constitution.

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<sup>1</sup>The Standards Committee was abolished by the Council on 24 April 2012 to take effect on 30 June 2012

**Article 9 - The Standards ArrangementsCommittee**

**9.1 Standards ArrangementsCommittee**

~~The Council abolished the Standards Committee at a Council Meeting held on 24 April 2012. The Committee ceased to operate on 30 June 2012.~~

The Council adopted a local Code of Conduct and Standards Arrangements on 26 June 2012 to come into effect on 1 July 2012. A copy of the code of conduct and the Standards Arrangements are is attached to this Constitution at Part 5

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## **Article 10 – Community Engagement Forums**

### **10.1 Community Engagement Forums (CEFs)**

The Council will establish and support no less than 2 Community Engagement Forums.

### **10.2 Composition**

Community Engagement Forums will be public meetings held periodically in each CEF area to discuss issues affecting that area.

Community Engagement Forum Partnership Boards will comprise all district ward councillors from the area concerned, all North Yorkshire County Councillors from the area, one representative from the North Yorkshire Police and one from the North Yorkshire Fire and Rescue Services, up to 4\* representatives from town and parish councils located in the area and up to 4\* co-opted members of the community appointed by the Community Engagement Forum Partnership Board. (\* or another number agreed by the CEF Partnership Board.)

The CEF Chair will be appointed by the Council. Each CEF shall appoint a Vice-Chair from amongst the members of the Partnership Board. (The Leader and Executive members shall not be appointed as CEF Chairs or Vice Chairs.)

### **10.3 Role and Function**

- (a) To provide an opportunity to meet the local community, including town and parish councils, to discuss and consult on any issues and topics of local concern and interest and to look at possible solutions.
- (b) To assist in the planning and monitoring of local services.
- (c) To enable decision-making to be taken at a local level where this is practical and effective and in accordance with the scheme of delegation.
- (d) To determine, allocate and monitor the use of the Community Engagement Forum Community Fund.
- (e) To develop, monitor and maintain the area Community Development Plan.
- (f) To support communities in their implementation of the Community Development Plan and solutions to issues and topics of local concern.

## **Article 11 - Officers**

### **11.1 Management structure**

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

The appointment of the Head of Paid Service, the Officer with responsibilities under Section 151 of the Local Government Act 1972 (Chief Finance Officer), the Officer with responsibilities under Section 5 of the Local Government and Housing Act 1989 (the Monitoring Officer) and any other Chief Officer shall be the responsibility of an Appointments Panel set up by the Council, from time to time, to make such appointments. The appointment of the Head of Paid Service and the Monitoring Officer will be approved by Council.

In the case of all other staff, the responsibility for appointment cannot be undertaken by the councillors and falls to the Head of Paid Service or their nominee.

### **11.2 Chief Officers**

For the purposes of this Constitution the following posts will be described as Chief Officers:

- Chief Executive
- Deputy Chief Executive

### **11.3 Statutory Posts**

The Council has responsibility for designating the following statutory posts:

- (a) Head of Paid Service
- (b) Chief Finance Officer (Section 151 responsibilities)
- (c) Monitoring Officer (Section 5 responsibilities)

The Council has decided to designate the following officers as taking those designated appointments:

- (a) Head of Paid Service will be the Chief Executive
- (b) Chief Finance Officer will be the Executive Director with s.151 responsibilities
- (c) Monitoring Officer will be the Deputy Chief Executive.

### **11.4 'Proper Officer' appointments**

The existing 'Proper Officer' appointments are as follows:

The Chief Officers and Directors are authorised by the Council to exercise/undertake/carry out on its behalf the powers/duties granted or imposed by those Acts of Parliament, Statutory Instruments and Orders set out from time to time in the Scheme of Officer Delegation (see Part 3) including all such designations of Proper Officer under any enactment.

The 'Proper Officer' in relation to the Public Health Act 1936 means 'all consultants in public health medicine, either properly appointed or working in a locum capacity to the Health Authority responsible for the area of Selby District'.

The Chief Executive shall be the Proper Officer in relation to all access to information and associated legislation except that in the case of a joint report, each Chief Officer or Director shall be regarded as the Proper Officer for the part of the report which he/she has prepared.

#### **11.5 Duties of the Head of Paid Service**

The Head of Paid Service will determine the overall officer structure of the Council, showing the management arrangements and the deployment of officers. The current management structure is shown at Part 7 of this Constitution.

The Head of Paid Service will report to the 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 those functions and the organisation of officers.

The Head of Paid Service shall not also hold the role of Monitoring Officer but may hold the role of Chief Finance Officer if the Head of Paid Service is also a qualified accountant.

#### **11.6 Duties of the Monitoring Officer**

The Monitoring Officer will have the following responsibilities:

- (a) to maintain and amend the Constitution as necessary after consultation with the Head of Paid Service subject to the approval of the Council under the provisions of Article 15;
- (b) after consultation with the Head of Paid Service and the Chief Finance Officer, to report to the Council or to the Executive (the latter in relation to an Executive function) if he/she 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 if implementation has not already occurred, until the Monitoring Officer's report has been considered;

- (c) to provide support to the Council in order to contribute to the promotion and maintenance of high standards of conduct;
- (d)<sup>2</sup> to deal with complaints and allegations of breaches of the Councillor Code of Conduct in accordance with the arrangements adopted from time to time by the Council;
- (e) to ensure that decisions of the Executive, together with the reasons for those decisions, and the relevant officer reports and background papers, are made publicly available in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (f) to advise whether decisions of the Executive are within the approved budget and policy framework of the Council and to carry out this role in consultation with the Head of Paid Service and the Chief Finance Officer as necessary;
- (g) to provide advice to all councillors on the scope and powers and authority to take decisions, maladministration issues, financial impropriety, probity and budget and policy framework matters;
- (h) to undertake responsibilities under Section 5 of the Local Government and Housing Act 1989;
- (i)<sup>3</sup> To maintain a Register of Interests for District, Town and Parish Councillors in accordance with the requirements of the Localism Act 2011 and subsequent legislation and regulations, including dealing with matters relating to sensitive interests; and
- (j)<sup>4</sup> To deal with applications for dispensations from the rules relating to councillor and co-optee interests in accordance with the delegations set out in Part 3 of this Constitution.

The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.

## 11.7 Duties of the Chief Finance Officer

The Chief Finance Officer shall have the following responsibilities:

- (a) to report to the Council or to the Executive (the latter in relation to an Executive function) and the Council's Auditor if he/she 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. This report will follow consultation with the Head of Paid

<sup>2</sup> Inserted following the adoption of a set of formal arrangements by Council on 24 April 2012

<sup>3</sup> Inserted following approval by the Council on 24 April 2012

<sup>4</sup> Inserted following approval by the Council on 24 April 2012

Service and the Monitoring Officer. Where a report relates specifically to the Head of Paid Service, the Chief Finance Officer shall first consult the Leader of the Council. Where a report relates specifically to the Monitoring Officer, the Chief Finance Officer shall first consult the Head of Paid Service.

- (b) to administer the financial affairs of the Council.
- (c) to contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) to 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 also support and advise councillors and officers in their respective roles.
- (e) to provide financial information to the media, members of the public and the community.
- (f) to undertake responsibilities under Section 151 of the Local Government Act 1972.

#### **11.8 Duty to provide sufficient resources**

The Council will provide the Head of Paid Service, 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.

#### **11.9 Conduct**

All officers will comply with the Employees' Code of Conduct and the Protocol on Councillor/Officer Relations set out in Part 5 of this Constitution.

#### **11.10 Employment**

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

#### **11.11 Attendance at Meetings**

The Chief Executive, Head of Paid Service, Chief Finance Officer and Monitoring Officer shall be entitled to attend any meeting of the Council or its committees or sub-committees necessary for the proper conduct of their responsibilities.

## Article 12 – Joint Arrangements

### 12.1 Joint Committees

The Local Government Act 2000 and regulations made thereunder enable local authorities to make use of joint arrangements with other authorities and delegate functions to other local authorities.

The Council has the following joint committee arrangements:

- North Yorkshire Building Control Partnership
- 
- North Yorkshire District Council Joint Procurement Partnership
- Leeds City Region Leaders Board
- North Yorkshire Police and Crime Panel

### 12.2 Future joint arrangements

- (a) The Council may establish further joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish further joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Executive may only appoint Executive Members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:
  - (i) the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
  - (ii) the joint committee is between a county council and a single district council and relates to functions of the Executive of the county council. In such cases, the Executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to

such appointments.

Details of any further joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegation in Part 3 of this Constitution.

### **12.3 Access to information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the Access to Information Procedure Rules in Part VA of the Local Government Act 1972 will apply.

### **12.4 Delegation to and from other local authorities**

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

### **12.5 Contracting out**

The Council (for functions which are not executive functions) and/or the Executive (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

## **Article 13 – Decision-Making**

### **13.1 Principles of decision-making**

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

In the general public interest, and specifically to guard against the possibility of successful legal challenge to decisions made by the Council or by the Executive, it is necessary to demonstrate:

- (a) that the decision is within the powers of the Council;
- (b) that all relevant matters have been fully taken into account in reaching a decision;
- (c) That all relevant Rules and particularly the Council Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and Access to Information Procedure Rules have been complied with;
- (d) that the decision has taken into account the provisions of the Human Rights Act;
- (e) that the decision is taken after due consultation with, and the appropriate professional advice from, all relevant officers;
- (f) that any councillor concerned has considered whether he/she has any declarable interest in the particular item and if necessary made a declaration of interest;
- (g) that the current scheme of delegation has been complied with;
- (h) that the decision has been taken in an open and transparent manner;
- (i) that the decision is clear in terms of its aims and desired outcomes;
- (j) that the decision has been taken in accordance with the Council's aims and strategies; and
- (k) that the decision is properly recorded and published within the appropriate timescale, together with declarations of interest and background papers.

### **13.2 Types of decision**

- (a) Decisions reserved to the Council.

Decisions relating to the functions listed in Article 4.2 will be made by the Council unless these decisions have been delegated through



- this Constitution.
- (b) Key decisions.
- (c) Administrative or operational decisions
- (de) All other decisions taken by the Council or on its behalf and not included in (a) (b) or (c) above.

### 13.3 Key decisions

A key decision is one which is financially significant for the service or function concerned because it relates to expenditure or savings of more than £150,000 or which will have a significant impact on people who live and work in an area covering two or more district wards.

Key decisions will only be taken in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution (but subject to the requirements of the Access to Information Procedure Rules, the Budget and Policy Framework Procedure Rules and the Overview and Scrutiny Procedure Rules).

### 13.4

#### Administrative or Operational Decisions:-

An administrative or operational decision is one in relation to a Council or Executive function which is not a Key decision and which;

- is within an approved budget; and
- is expenditure of less than £50 001; and
- is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- does not raise new issues of policy or otherwise affect the rights of an individual outside the confines of existing policy

### 13.4 Decision-making by the Council

Subject to Article 13.9, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 13.5 Decision-making by the Executive

Subject to Article 13.9, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 13.6 Decision-making by the Overview and Scrutiny Committees and their sub-committees

The Overview and Scrutiny Committees and their sub-committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

**13.8 Decision-making by the Community Engagement Forums**

The Community Engagement Forums will follow the Community Engagement Forum Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**13.9 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.

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## **Article 14 – Finance, Contracts and Legal Matters**

### **14.1 Financial management**

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

### **14.2 Contracts**

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

### **14.3 Legal proceedings**

The Solicitor to the Council is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, ensure the implementation of Council policy or to protect the Council's interests including issuing instructions to Counsel.

### **14.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the 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 £10,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing and where it meets or exceeds the financial limits in the Contract Procedure Rules which require contracts to be under seal, shall be made under the Common Seal of the Council.

### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or one of its committees or the Executive or in accordance with the Scheme of Delegation 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 some other officer authorised by him/her.

An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for this purpose and be signed by the person(s) who shall have attested the sealing.

## **Article 15 - Review and Revision of the Constitution**

### **15.1 Duty to monitor and review the Constitution**

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

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

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

### **15.2 Changes to the Constitution**

- (a) **Approval.** Changes to the Constitution will only be approved by the Council after consideration of the proposal by the Executive taking into account advice from the Chief Executive or the Monitoring Officer but subject to any delegation to the Monitoring Officer to make minor amendments.
- (b) **Change in Governance Arrangements.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals. If the change proposed is to a Mayoral form of Executive, it can only be implemented after being approved in a local referendum.

### **15.3 Operative date**

In the absence of an operative date being specified by the Council, all changes to the Constitution will be effective from the date of the next Council meeting following the date of the decision to effect the change.

## **Article 16 – Suspension, Interpretation and Publication of the Constitution**

### **16.1 Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules set out in Part 4 of this Constitution may be suspended by the Council to the extent permitted within those rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules moved without notice shall not be valid 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 Council Procedure Rules may be suspended in accordance with the provisions contained in those Rules.

### **16.2 Interpretation**

The ruling of the Chairman of the Council 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.

### **16.3 Publication**

- (a) The Chief Executive will give a copy of this Constitution to each councillor upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at the Council's offices, its website, 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:

- (a) Article 6 - Overview and Scrutiny Committees and the Overview and Scrutiny Procedure Rules.
- (b) Article 7 - The Executive, and the Executive Procedure Rules.
- (c) Article 12 - Joint arrangements.

- (d) Article 13 - Decision-making, and the Access to Information Procedure Rules.
- (e) Part 3 - Responsibility for Functions.

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## APPENDIX 3





## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

### **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

#### **PART 3.1 - General**

##### **1. Responsibility for decision-making**

The Council has a duty to maintain an up-to-date record of which part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

This Part of the Constitution sets out who is responsible for the various functions of Selby District Council.

##### **2. Principles in decision-making**

All decisions of the Council will be made in accordance with the principles of decision-making as set out in Article 13 of this Constitution.

##### **3. Responsibility for functions**

Functions fall into the following categories:

###### **COUNCIL(NONE EXECUTIVE) FUNCTIONS**

These are functions which, by law, are not the responsibility of the Executive. In some cases, such as adopting the Council's Budget or the Policy Framework, only the full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an Officer.

###### **"LOCAL CHOICE" FUNCTIONS**

There are some functions which the Council may choose to treat as being the responsibility of the Executive (in part or whole) or as being non-executive functions.

###### **EXECUTIVE FUNCTIONS**

All other functions are executive functions. Decisions on these functions will be taken by the Executive acting collectively at an Executive Meeting or delegated to an individual Executive Councillor or an officer in accordance with this Constitution or dealt with under joint arrangements.

##### **4. Decision making which is delegated to Officers**

Where a function has been delegated to an officer(s) ("delegated decision making"), the decision may be taken in the name of (but not necessarily personally by) such delegated officer(s) or by another officer(s) ("authorised officers(s)") in accordance with arrangements made from time to time by such delegated officer(s) for this purpose.

**5 Joint Arrangements**

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body; and
- (d) establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in all or any of the participating authorities' areas, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

Details of any joint arrangements including any delegations to joint committees are set out in this Part (see para XX).

**6 Delegation To and From Other Local Authorities**

- (a) By virtue of the Local Government Acts 1972 and 2000, the Council may arrange for the discharge of its functions by another local authority unless the function is also a function of the other local authority's Executive.
- (b) In accordance with the provisions of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, the Council may delegate functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (c) The decision whether or not to accept or make arrangements for such a delegation of functions from or to another local authority shall be made only by the Council.

**7 Contracting Out**

The Council may contract out to another person, body, organisation, or to employees of any such person, body, or organisation, functions which may be exercised by an officer and which are subject to an Order made pursuant to powers under Section 70 of the Deregulation and Contracting Out Act 1994 or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, providing there is no delegation of the Council's discretionary decision-making.

**8 Interpretation**

In this part of the Constitution:

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

“the 2000 Act” means the Local Government Act, 2000;

“the 2000 Regulations” means the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000;

“the 2007 Act” means the Local Government and Public Involvement in Health Act, 2007;

“the 1972 Act” means the Local Government Act, 1972.

### **PART 3.2 Summary Of Responsibilities**

#### **COUNCIL (NON EXECUTIVE) FUNCTIONS<sup>1</sup>**

<b>Function</b>	<b>Decision-Making Body</b>	<b>Membership</b>	<b>Delegations</b>
Town and Country Planning, Development Control, Land and Highways	Planning Committee	12 [10] councillors	Lead Officer – Planning (pages xx)
Licensing, Registration and Appeals (incl the statutory Licensing Committee) <sup>2</sup>	Licensing and Appeals Committee	10 councillors	Lead Officers Environmental Health and Housing and Debt Control and Enforcement (pages xx)
Standards	Council	All Councillors	Delegations to the Monitoring Officer. See also the Standards Arrangements in Part 5
Health and Safety at Work	Council	All councillors	See Officer Delegations (pages xx)
Elections and Other Civic Arrangements (including Byelaws and Bills)	Council	All councillors	See Officer Delegations (pages 47-57)
Staff & Pensions	Council	All councillors	See Officer Delegations (pages 47-57)

The decision making bodies set out above may from time to time add to or alter those delegations, as appropriate, within their functional responsibilities.

<sup>1</sup> Regulation 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

<sup>2</sup> Licensing Act 2003

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

Certain Council (non-executive) functions have also been delegated to officers. Details of those delegations can be found in the Tables in xxx of this Part.

### LOCAL CHOICE FUNCTIONS<sup>3</sup>

Function	Decision-Making Body	Membership	Delegation of Functions
Appeals against decisions of the Authority	Licensing and Appeals Sub Committee	3 councillors	To consider and determine any appeals against any decision made by or on behalf of the Authority where an appeal process is allowed or in place.
Best value reviews	The Executive	Executive councillors	To commission and consider best value service reviews.
Contaminated Land	The Executive	Executive councillors	All functions of the Council related to contaminated land not otherwise delegated to officers.
Control of Pollution and Air Quality	The Executive	Executive councillors	All functions of the Council related to pollution and air quality not otherwise delegated to officers.
Statutory Nuisance	The Executive	Executive councillors	All functions of the Council related to statutory nuisance not otherwise delegated to officers.
Enquiries as to interest in land	The Executive	Executive councillors	All functions of the Council related to enquiries as to interest in land not otherwise delegated to officers.
Agreements as to Highway Works	The Executive	Executive councillors	All functions of the Council related to agreements as to

<sup>3</sup> Regulation 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

Function	Decision-Making Body	Membership	Delegation of Functions
			Highway Works not otherwise delegated to officers.
Appointments (and revocations of appointments) to outside bodies	The Executive	Executive councillors	Appointments to bodies exercising the equivalent of executive functions.
	The Council	All councillors	Appointments to bodies exercising the equivalent of non-executive functions.

Certain local choice functions have also been delegated to officers. Details of those delegations can be found in the Tables in Section xx of this Part.

### SHARED FUNCTIONS <sup>4</sup>

Function	Decision-Making Bodies	Delegation of Functions
Sustainable Community Strategy <sup>5</sup>	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification
Community Safety Partnership Plan/Crime and Disorder Reduction Strategy <sup>6</sup>	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification

<sup>4</sup> Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

<sup>5</sup> s4 of the Local Government Act 2000

<sup>6</sup> ss5 and 6 Crime and Disorder Act 1998

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

Plans and alterations which together comprise the Development Plan <sup>7</sup>	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification
Licensing Policy Statement (Gambling) <sup>8</sup>	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification

Certain shared functions have also been delegated to officers. Details of those delegations can be found in the Tables in Section xx of this Part.

### PART 3.3 - Responsibility For Executive Functions

1. The Executive consists of the Leader and between 2 and 9 other Councillors appointed by the Leader, one of whom shall be the Deputy Leader.
2. The Executive exercises the following functions:-
  1. Providing overall leadership and direction to the Council.
  2. Discharging all the functions of the Council which are Executive Functions under the law and this constitution
  3. Formulating, monitoring and reviewing the budget and policy framework, following appropriate consultation, for adoption or approval by the Council.
  4. Leading the search for best value in all that the Council does.
  5. Ensuring effective performance of the Council in relation to its stated policies and objectives.
  6. Ensuring that the Council has strategies and plans in place which support the work of the Council, ensure the delivery of its objectives and fulfil its statutory obligations.
  7. Co-ordinating the policies and activities of the Council.
  8. Determining all matters to do with the implementation of strategies,

<sup>7</sup> s54 Town and Country Planning Act 1990 and s15 Planning and Compulsory Purchase Act 2004

<sup>8</sup> s349 Gambling Act 2005

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

plans and policies which are not otherwise delegated to another part of the Council by law or under this Constitution.

9. Making appointments to outside bodies which exercise the equivalent of executive functions
3. The Leader may also delegate functions to officers on a standing or specific basis. The Leader shall report annually to Council on the standing delegations to officers.

**Current standing delegations are set out in Section XX below.**

### **PART 3.4 – Council Functions delegated to Committees**

**Specific responsibilities for council (none executive) functions (including local choice functions delegated to non-executive bodies)**

#### **3.4.1 PLANNING COMMITTEE**

1. To exercise all functions relating to Town and Country Planning and development management as specified in Section A of Schedule 1 of the Local Authorities (Responsibilities for Functions) ( England) Regulations 2000 as from time to time in force including enforcement and all powers under planning legislation to obtain information as to interests and particulars of persons interested in land.

#### **PROVIDED THAT**

When any planning application is being considered by the Committee, if, before any decision is made in respect of that application, a Committee member proposes that the decision on the application shall be made by the Council, and if, on a vote being taken by the Committee, there is a majority of votes in favour of that proposal, then the conclusion of the Committee on the planning merits of that application shall be treated as a recommendation by the Committee to the Council.

2. To determine all applications for planning permission made by the Council to which Regulation 3 of the Town and Country Planning General Regulations 1992 applies.
3. To determine all matters relating to the control of advertisements, the preservation of trees, buildings and important hedgerows, the extinguishment or diversion of public highways affected by development and the service of purchase notices and notices as to waste land.
4. To lodge objections against applications for heavy goods vehicles operators licences.



## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

5. To determine all matters relating to high hedges arising under Part 8 of the Anti-Social Behaviour Act 2003.

### **3.4.2 LICENSING AND APPEALS COMMITTEE**

1. To exercise all the licensing and enforcement functions of the Council relating to
  - (a) Taxi, food and miscellaneous licensing, health and safety and certain deposits on the highway as set out in Sections B, C and I(22) of Schedule 1 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force
  - (b) Contaminated land, control of pollution and the management of air quality as set out in Schedule 2 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force
  - (c) Decisions as to the revocation of HMO licences under the Housing Act 2004
  - (d) Smoke free premises under the Health Act 2006.
  - (e) Motor salvage and scrap metalIncluding the setting of fees
2. The licensing and enforcement functions of the Council relating to
  - (a) Licensing functions under the Licensing Act 2003 including applications for and variations to premises licences, club premises certificates and provisional statements where a relevant representation has been made and not withdrawn and imposing appropriate conditions\*
  - (b) Licensing functions under the Gambling Act 2005 including the setting of fees\*

\*most cases will be determined by the Licensing and Appeals Sub-Committee but an officer may, in consultation with the Chair of the Committee, refer the determination to the full Licensing and Appeals Committee where he/she considers it merits their attention.

### **3.4.3 LICENSING AND APPEALS SUB COMMITTEE<sup>9</sup>**

Consisting of 3 Members of the Licensing and Appeals Committee selected by the Democratic Services Officer and normally including the Chair of Vice Chair of the

<sup>9</sup> This is sub-committee constituted under the Licensing Act 2003 and political balance is not required

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

### Licensing Committee

1. To determine applications for licences, provisional statements and certificates (including Review Applications and Variation Applications) under the Licensing Act 2003 where a relevant representation has been made and not withdrawn including the imposition of appropriate conditions.
2. To decide whether to object when the Council is a consultee to a Licensing Act application and not the Authority determining the application
3. To determine an objection to a temporary event notice.
4. To determine applications for licences, provisional statements, certificates and permits (including Review Application and Variation Applications) under the Gambling Act 2005 where a relevant representation has been made and not withdrawn including the imposition of appropriate conditions.
5. Cancellation of club gaming/club machine permits
6. To decide to give a counter notice to a temporary use notice.

## **PART 3.5 - Overview And Scrutiny Arrangements**

The Policy Review Committee, Scrutiny Committee and Audit and Governance Committees will each perform Overview and Scrutiny roles but only the Policy Review Committee and Scrutiny Committee will undertake the Council's statutory Overview and Scrutiny functions.

### **3.5.1 Policy Review Committee**

1. To contribute to the development of the policies contained in the Budgetary and Policy Framework of the Council.
2. To consider and undertake policy reviews referred by the Executive.
3. To propose and undertake an annual programme of work of policy reviews or inquiries into existing Council policy.
4. To consider and comment upon the implications on Selby District of the policies of partner organisations and other agencies delivering public services in the District.

### **3.5.2 Overview and Scrutiny Committee**

1. To scrutinise the performance of the Council and that of its partner organisations and other agencies delivering services within the Selby District.

2. To exercise the Council's statutory obligations and powers in relation to Overview and Scrutiny.
3. Exercise the right of call-in of decisions and recommendations made but not yet implemented.
4. To issue reports and make recommendations, where appropriate, and in relation to any matters listed above, for consideration by the Council, Executive or the relevant committee of the Council

### **3.5.3 Audit and Governance Committee**

1. To scrutinise and monitor the control systems, procedures and risk management systems operating at the Council.
2. To monitor and report on the effectiveness of the Council's Constitution.
3. To receive reports from the Monitoring Officer on the effectiveness of the Standards Arrangements adopted by the Council.
4. To scrutinise and approve the Council's Annual Governance Statement, statement of accounts, income and expenditure and balance sheet or records of receipts and payments (as the case may be).
5. To be satisfied that the Council's assurance statements, including the Annual Governance Statement, have been properly developed and considered by councillors.
6. To receive the Annual Standards Report prepared by the Monitoring Officer.
7. To receive, but not direct, internal audit service strategy and plan and monitor performance.
8. To receive the annual report of the internal audit service
9. To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
10. To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
11. To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
12. To consider the reports of external audit and inspection agencies

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

relating to the actions of the Council.

13. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
14. To review the financial statements, external auditor's opinion and reports to councillors, and monitor management action in response to issues raised by external audit.
15. To issue reports and make recommendations, where appropriate, and in relation to any matters listed above, for consideration by the Council, Executive or the relevant committee of the Council.

### **PART 3.6 - Community Engagement Forums**

#### **1 Purpose**

To provide a forum to raise, discuss and consider matters related to the well-being of the Forum's area, particularly, but not exclusively, those matters which are the responsibility of the local government authorities, their partner organisations and other organisations who provide services partly or wholly funded by public funds.

#### **2 Membership**

All Selby District ward councillors for the Forum area.

All North Yorkshire County councillors for the Forum area.

Up to 4\* representatives from town and parish councils in the Forum area

Up to 4\* co-opted members of the community.

\* or another number agreed by the CEF Partnership Board.

#### **3 Functions**

1. To contribute to the achievement of the aims and objectives of the Selby and North Yorkshire Strategic Partnership and the development and delivery of the Selby District Sustainable Community Strategy.
2. To assess and make recommendations to the appropriate budget holder for the allocation of funds from the budget made available by the Council to each CEF.

### **PART 3.7 - JOINT COMMITTEES**

**3.7.1 BUILDING CONTROL PARTNERSHIP**

**Purpose**

To work in partnership with the other member Councils for the delivery of a Building Control Service in accordance with the terms of the Partnership Agreement.

**Membership**

2 Selby District councillors and 2 councillors each from the other member Councils

**3.7.2 NORTH YORKSHIRE PROCUREMENT PARTNERSHIP**

**Purpose**

To work in partnership with the other member Councils for the delivery of a shared Procurement Service in accordance with the terms of the Partnership Agreement.

**Membership**

1 Selby District Councillor, 1 councillor each from Ryedale District and Scarborough Borough Councils

**3.7.3 LEEDS CITY REGION LEADERS BOARD**

**Purpose**

To develop an internationally recognised city region;  
To raise economic performance;  
To spread prosperity across the whole of the city region; and  
To promote a better quality of life for all of those who live and work in the city region.

**Membership**

1 Selby District Councillor and 1 Councillor from each of the other member Councils

Full membership details, Terms of Reference, functions and rules governing the conduct and proceedings of meetings can be obtained via the Leeds City Region Local Enterprise Partnership

**3.7.4 NORTH YORKSHIRE POLICE AND CRIME PANEL**

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

### **Purpose**

The North Yorkshire Police and Crime Panel is a joint committee established and maintained in accordance with the Police Reform and Social Responsibility Act 2011

The Police and Crime Panel discharges statutory functions set out in the 2011 Act.

### **Membership**

Craven District Council, Hambleton District Council, Harrogate Borough Council, North Yorkshire County Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council and Selby District Council will each appoint one councillor as a member of the panel; and City of York Council will appoint two councillors

## **PART 3.8 - CONSULTATIVE COMMITTEES**

### **Access Selby Board**

#### **Purpose**

The Access Selby Board will assist in delivering a business which is commercially focussed but which operates under the statutory framework which regulates local government and in accordance with the Constitution of Selby District Council and the Rules of Procedure contained therein.

All decisions of the Board will be given effect using the existing delegations to officers or by way of report and recommendation to the appropriate decision-making body of the Council.

#### **Membership**

##### Non-Executive Directors

3 councillors (voting members)  
1 co-opted member (non voting)

##### Executive Directors

2 officers (non voting)

#### **Specific Functions**

1. To advise on the strategic direction of the business within the budget and policy framework of Selby District Council.

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

2. To monitor performance in achieving the business's key financial objectives.
3. To report on the activities of Access Selby to the Council, the public and other stakeholders.
4. To consider emerging issues which may be material to the business and affairs of Access Selby.
5. To receive and consider proposals for joint ventures, strategic partnerships and alliances which are significant in terms of the business of Access Selby.
6. To receive regular Business and Financial Reports and review performance in the light of the business's strategy, objectives, corporate and business plans, budgets and policies.
7. To receive and consider Access Selby's procedures for reviewing, monitoring and managing risk.
8. To receive and consider high level reports on matters material to the business including relations with regulatory authorities, human resources, information technology, insurance, disaster recovery, litigation and health and safety.

### **PART 3.9 - OFFICER DELEGATION SCHEME**

#### **3.9.1 General**

- (a) Councillors set policy priorities and strategies to reflect local interests and needs and are also responsible for allocating funding between individual priority areas. The Chief Executive, Deputy Chief Executive, Executive Directors and Access Selby Directors and their staff implement these strategies and policies. It is officers therefore, who have responsibility for managing the Council's day to day operations, within a policy and budgetary framework laid down by Councillors.
- (b) Under the executive arrangements adopted by the Council, both full Council and the Executive have specific functions and many of these can be delegated to committees or officers. Where Council or the Executive have established a committee to discharge their respective functions then subject to any limitations imposed by the Council/Executive respectively, that committee can also delegate its functions to an officer.
- (c) The functions delegated to officers by the Executive are set out in the delegations to officers in Part XX below
- (d) The functions delegated to officers in relation to Council functions are set out in Part xx below.

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

### 3.9.2 General conditions applying to all delegated powers:

- (a) Functions must be discharged by officers in the manner set out below and at all times in accordance with:
  - (i) the Constitution of the Council;
  - (ii) any relevant policies, directions, rules of procedure and codes of practice of the Council;
  - (iii) approved budgets; and
  - (iv) decisions of the Executive and Council and their committees.
- (b) The Council can, without prejudice to any action already taken, amend or revoke this scheme of delegation at any time (in accordance with the arrangements for amending this Constitution as set out in Article 15);
- (c) Named officers may arrange for functions to be discharged by others, but will remain accountable for those functions. Where such further delegation takes place the relevant authorisation shall be set out in writing.
- (d) An officer shall not incur, nor commit the Council to, any expenditure for which there is no budget provision, or for which specific approval is required and has not been received, except in an emergency. In such circumstances, the agreement of the Leader of the Council and the Executive Director with s. 151 responsibilities will first be obtained, and the circumstances subsequently reported to the Executive.
- (e) Any matter which, in the judgement of the officer exercising powers under this Scheme, is likely to give rise to unusual difficulty, or the circumstances of which are likely to give rise to controversy or other extraordinary consideration, shall be dealt with only after consultation with the Leader of the Council, appropriate Executive Councillor or Committee Chair.
- (f) Notwithstanding the provisions of this Scheme, the officer may bring before the Executive or appropriate committee for determination any matter which, having regard to his or her knowledge and understanding of the circumstances, should more appropriately be decided by the Executive or decision making body or which involves questions of policy not yet determined by the Council.
- (g) An Executive Councillor may request that an officer refrains from exercising a delegated executive authority in respect of a particular matter and refer it instead to the Executive, for a decision. The Officer shall have regard to this request before deciding how to proceed.



- (h) Any reference within this Scheme to 'Chair' shall be taken to apply to the Vice-Chair where contact with the Chair cannot be made.
- (i) Delegated powers shall include the carrying out of all duties and powers covered by the function including administrative and procedural acts, the exercising of discretion and the making of determinations.

### **3.9.3 Specific Functions delegated to the Chief Executive**

- (a) To act as Head of Paid Service for the Council and in particular:
  - (i) to have authority over all other officers (except the Monitoring Officer and the Section 151 Officer when either act in that capacity);
  - (ii) to formulate employment practices and procedures; and
  - (iii) to deal with routine matters of day-to-day administration, management and control of matters which are necessary for the proper performance of the Chief Executive's terms of appointment.
- (b) To exercise all the functions of the Proper Officer of the Council under all legislation in relation to both executive and non-executive functions except where that legislation or this Scheme delegates such functions to another named officer.
- (c) To formulate and co-ordinate professional advice to all parties in the decision-making process and, in particular, to advise on strategic and corporate policy and to ensure that appropriate arrangements are in place to give effect to the strategies, plans and policies of the Council.
- (d) To sign on behalf of the Council any document necessary to give effect to any decision of the Council in relation to both executive and non-executive functions.
- (e) To act as the authorised representative of the Council in respect of (1) its membership of any limited company to give effect to any decision of the Council in relation to executive functions or (2) any partnership or (3) any external bodies which are required by statute or the Council.
- (f) To undertake all functions relating to elections and electoral registration.
- (g) Under the Data Protection Act 1998 and Freedom of Information Act 2000, and guided by the Access to Information Procedure Rules, to

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

decide appeals as to whether applications by councillors for access to material should be refused.

- (h) To amend the approved establishment and staffing structure, provided any changes are consistent with the budget and policy framework.
- (j) To discharge any function of the Council not otherwise delegated to Chief Officers, Directors or other named officers.
- (k) Limits, controls and conditions
  - (i) After consultation with the Leader of the Council:
    - to exercise all the Council's functions in emergency or urgency situations which, in the Chief Executive's opinion, seriously affect the functions of the Council and/or the well-being of the Council's area; and
    - to receive and consider proposals for the Executive's Forward Plan and annual work programmes of committees and make recommendations on those work programmes to the Council.
  - (ii) After consultation with the relevant Group Leader to authorise any amendments or changes to the appointment of councillors and substitute councillors to committees or outside bodies.
  - (iii) After consultation with the Executive Director with s.151 responsibilities to approve supplementary estimates up to and including £10,000 (up to an overall limit of £50,000 in any one year) and to report details of all such approvals to the Executive on a quarterly basis.

### **31.3 Specific Functions delegated to the Deputy Chief Executive**

- (a) After consultation with the Leader of the Council and in the absence of the Chief Executive or when the Chief Executive is unable to act in that capacity:
  - (i) to exercise all the Council's functions in emergency or urgency situations which, in the Deputy Chief Executive's opinion, seriously affect the functions of the Council and/or the well-being of the Council's area.

### **3.9.4 Specific Functions Delegated to the Monitoring Officer**

- (a) To be the proper officer to receive complaints of failure to comply with the local Councillor Code of Conduct;

- (b) To take all of the actions necessary to implement and operate the arrangements adopted from time to time by the Council for dealing with complaints of failure to comply with the local Councillor Code of Conduct;
- (c) To prepare and maintain a register of councillors interests to comply with the requirements of the Localism Act 2011 and the Council's Code of Conduct, and ensure that it is available for inspection as required by the Act
- (d) To prepare and maintain registers of councillors' interests for each Town and Parish Council to comply with the Act and any Code of Conduct adopted by each Town or Parish Council and ensure that it is available for inspection as required by the Act;
- (e) To grant dispensations from the rules concerning councillor interests
- (f) To determine requests for councillors' interests to be considered and dealt with as sensitive interests
- (g) To make administrative and consequential changes to the Constitution to reflect legislative changes, or changes to names, titles or designations but which do not alter the purpose or intent of this Constitution.
- (h) To deal with complaints (including complaints relating to maladministration) and to authorise without prejudice payments or other benefits up to a value of £1000
- (i) To deal with routine matters of day-to-day administration, management and control within the remit of the Monitoring Officer responsibilities or matters which are necessary for the proper performance of the Monitoring Officer's responsibilities' terms of appointment.

**3.9.5 Specific Functions delegated to the Executive Director with s.151 responsibilities**

- (a) To have operational control of the Council's finances and to act as financial adviser to the Council, Executive and committees.
- (b) To undertake all of the Council's functions in connection with:
  - (i) Section 151 of the Local Government Act 1972
  - (ii) Accountancy (including banking)
  - (iii) Investments, borrowing and financing
  - (iv) Insurances
  - (v) Housing and Council Tax Benefits
  - (vi) Council Tax, NNDR and other Revenues

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

- (vii) Internal Audit (including matters arising from the Internal Audit Partnership)
  - (viii) Debtors and Creditors
  - (ix) The Collection Fund
  - (x) Investigation of fraud and financial impropriety
  - (xi) The control of funds and reserves
  - (xii) Central administration
  - (xiii) Risk Management
  - (ix) Information Governance
  - (x) Performance and Improvement Management
- (c) To deal with routine matters of day-to-day administration, management and control within the remit of the Executive Director with s.151 responsibilities or matters which are necessary for the proper performance of the Executive Director with s.151 responsibilities' terms of appointment.
- (d) Limits, controls and conditions
- (i) Where satisfied that recovery is not economically possible, to write off as irrecoverable, any debt, charge, penalty or arrears owing to the Council up to an amount of £10,000 in each case and to write off amounts over £10,000 only after consultation with the Leader of the Council (or the Lead Member for Finance in the Leader's absence).
  - (ii) To authorise expenditure arising in the case of emergencies/ disasters of up to £20,000 under Section 38 of the Local Government Act 1972, subject to a report back to the Executive.
  - (iii) To grant ex gratia payments of up to £300 in appropriate circumstances to staff suffering loss in the course of their duties that is not covered by insurance.
  - (iv) After consultation with the Chief Executive, to administer the operation of the Car Loan Scheme, in accordance with Council Policy for all officers within the Scheme (except in the case of a car loan for the Chief Executive when there shall be prior consultation with the Leader of the Council).

### 3.9.6 General (executive and non-executive) Functions delegated to all Chief Officers and Executive Directors

- (a) To undertake all of the Council's functions in connection with:
- (i) Corporate Policy Development
  - (ii) Community Safety
  - (iii) Community Engagement and Consultation
  - (iv) Corporate and Strategic Commissioning

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

- (v) Strategic Partnerships
- (b) To deal with routine matters of day-to-day administration, management and control within the remit of the Directors or matters which are necessary for the proper performance of the Directors' terms of appointment.
- (c) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (d) Within the budget and policy framework to recruit, manage and, where necessary, dismiss staff under their control and in particular:
  - (i) to authorise pay and conditions (including honoraria);
  - (ii) to undertake disciplinary proceedings;
  - (iii) to defend and, if necessary (and subject to the approval of the Executive Director with s.151 responsibilities if it involves claiming on the Council's insurance), settle any claims made against the Council following consultation with the Solicitor to the Council;
  - (iv) to be responsible for the health and safety at work of staff;
  - (v) to implement all employment policies, practices and procedures;
  - (vi) to operate the Council's Grievance, Disciplinary and Competency Procedures;
  - (vii) to authorise appropriate changes to post titles; and
  - (viii) to issue and revise statutory authorities to officers.
- (e) To acquire, dispose of, grant and obtain rights in land, premises, vehicles and other equipment and property for the purposes of delivering the Council's functions on such terms and conditions as are considered appropriate.
- (f) To provide, procure, and commission goods and services and to undertake, procure and commission works.
- (g) After consultation with the Solicitor to the Council, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.
- (h) To provide grants and other financial assistance.
- (i) After consultation with the Chief Executive, to authorise the issuing of an essential variation order which would increase the contract sum where delay would substantially increase the cost.
- (j) To decide (after consultation with the Solicitor to the Council where

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

necessary) the response to Freedom of Information and Environmental Information requests

- (k) To deal with complaints (including complaints relating to maladministration)
- (j) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental Information requests

### **3.9.7 Functions delegated to Access Selby**

#### **General Delegations to Directors of Access Selby**

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Directors or matters which are necessary for the proper performance of the Directors' terms of appointment.
- (b) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (c) Within the budget and policy framework to recruit, manage and, where necessary, dismiss staff under their control and in particular:
  - (i) to authorise pay and conditions (including honoraria);
  - (ii) to undertake disciplinary proceedings;
  - (iii) to defend and, if necessary (and subject to the approval of the Executive Director with s.151 responsibilities if it involves claiming on the Council's insurance), settle any claims made against the Council following consultation with the Solicitor to the Council;
  - (iv) to be responsible for the health and safety at work of staff;
  - (v) to implement all employment policies, practices and procedures;
  - (vi) to operate the Council's Grievance, Disciplinary and Competency Procedures;
  - (vii) to authorise appropriate changes to post titles; and
  - (viii) to issue and revise statutory authorities to officers.
- (d) To acquire, dispose of, grant and obtain rights in land, premises, vehicles and other equipment and property for the purposes of delivering the Council's functions on such terms and conditions as are considered appropriate.
- (e) To provide, procure, and commission goods and services and to undertake, procure and commission works.
- (f) After consultation with the Solicitor to the Council, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.

### **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

- (g) To provide grants and other financial assistance.
- (h) After consultation with the Chief Executive, to authorise the issuing of an essential variation order which would increase the contract sum where delay would substantially increase the cost.
- (i) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental Information requests
- (j) To determine whether applications by councillors for access to material should be refused.
- (k) To deal with complaints (including complaints relating to maladministration)

#### **General Delegations to Business Managers**

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Business Manager or matters which are necessary for the proper performance of the Business Managers' terms of appointment.
- (b) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (c) Within the budget and policy framework to recruit, manage and, where necessary, dismiss staff under their control and in particular:
  - (i) to authorise pay and conditions (including honoraria);
  - (ii) to undertake disciplinary proceedings;
  - (iii) to defend and, if necessary (and subject to the approval of the Executive Director with s.151 responsibilities if it involves claiming on the Council's insurance), settle any claims made against the Council following consultation with the Solicitor to the Council;
  - (iv) to be responsible for the health and safety at work of staff;
  - (v) to implement all employment policies, practices and procedures;
  - (vi) to operate the Council's Grievance, Disciplinary and Competency Procedures;
- (d) To provide and commission goods and services and to undertake and commission works.
- (e) After consultation with the Solicitor to the Council, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.
- (f) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

Information requests

- (g) To deal with complaints (including complaints relating to maladministration)

### **General delegations to Lead Officers**

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Lead Officer or matters which are necessary for the proper performance of the Lead Officers' terms of appointment.
- (b) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (c) Within the budget and policy framework to recruit and manage staff under their control and in particular:
  - (i) to be responsible for the health and safety at work of staff;
  - (ii) to implement all employment policies, practices and procedures;
  - (iii) to operate the Council's Grievance, Disciplinary and Competency Procedures;
- (d) To exercise statutory powers of entry and inspection for the purposes of any function performed by his/her service area.
- (e) To authorise any of his/her staff to exercise statutory powers of entry and inspection for the purposes of any function performed by his/her service area.
- (f) To serve requisitions for information as to ownership, occupation or other interest in land for the purposes of any of the functions performed by his/her service area.
- (g) To authenticate any documents necessary for the exercise of any function performed by his/her service area.
- (h) To sign Statements of Truth in civil proceedings as required by the Civil Procedure Rules 1998.
- (i) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental Information requests
- (j) To deal with complaints (including complaints relating to maladministration)
- (k) To administer formal cautions within the Guidelines set out in Home Office Guidance

### **Specific Executive Delegations to Directors, Business Managers and Lead Officers within Access Selby.**



**PART 3 - RESPONSIBILITY FOR FUNCTIONS**

The Officers listed in column 2 of the Table below/overleaf may exercise the functions set out in column 1 subject to the limits and controls listed in Column 3

Function	Delegation	Limits/Controls
Housing Functions including; housing management, tenant relations, Right to Buy, homelessness, Supporting people	Access Selby Directors  Business Managers  Lead Officers Environmental Health and Housing, Community Support and Debt Control and Enforcement	Subject to compliance with the financial and contract procedure rules
Contract Management and Procurement Services including Commercial Procurement , Leisure and Parks, Waste Disposal and Recycling (incl Commercial Waste), Street Cleansing, Pest Control, Countryside management	Access Selby Directors  Business Managers  Lead Officers Contracts, Assets,	Subject to compliance with the financial and contract procedure rules
Asset Management including property management and repair, disposal and acquisition of property, car parks, Public Conveniences, Grounds Maintenance	Access Selby Directors  Business Managers  Lead Officers Assets, Contracts Debt Control and Enforcement and Community Support.	Subject to compliance with the financial and contract procedure rules
Environmental Health including public health, environmental protection, public nuisance, street scene, Health and Safety at Work, Food Sales, Safety and Standards, Shops and Sunday Trading, Animals, Rivers, Watercourses and Land	Access Selby Directors  Business Managers  Lead Officers Environmental Heath and Housing, Debt Control and Enforcement and	Subject to compliance with the financial and contract procedure rules

**PART 3 - RESPONSIBILITY FOR FUNCTIONS**

<p>Drainage, Cemeteries, Crematoria and Burials, Emergency Planning and Civil Contingencies Act and Private Sector Housing Conditions, Improvement and Renovation</p>	<p>Community Support.</p>	
<p>Business Services including                  (i) HR Policy, Procedure and Codes of Practice                  (ii) Equalities and Diversity                  (iii) Workforce development                  (iv) Training and development                  (v) Job evaluation                  (vi) Pay, benefits and conditions of service                  (vii) Work placements, secondments and work experience                  (viii) Customer Services</p>	<p>Access Selby Directors                   Business Managers                   Lead Officer HR                   Access Selby Directors                   Business Managers                   Lead Officers Community Support and Business Support</p>	
<p>(ix) Media Relations and Communications                    (x) Information and communication technologies and services</p>	<p>Access Selby Directors                   Business Managers                   Lead Officer Communications                  Access Selby Directors                   Business Managers                   Lead Officer Data and Systems, IT Shared Services</p>	

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

(xi) Safeguarding	Manager Access Selby Directors  Business Managers  Lead Officer Assets	
(xii) Financial	Business Managers  Lead Officer Debt Control and Enforcement	Up to a value of £1000

### 3.9.8 Specific Officer Delegations for Non Executive (council) functions

#### Planning and Development Management

The Director of Community Services and the Lead Officer – Planning are authorised concurrently to carry out the following functions

- (a) All functions relating to Town and Country Planning and development management as specified in Section A of Schedule 1 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force including enforcement and all powers under planning legislation to obtain information as to interests and particulars of persons interested in land.
- (b) To further sub-delegate in writing these functions to Officers within his/her service subject to the limits and controls set out below and to any additional limits and controls as he/she considers appropriate.
- (c) Limits, controls and conditions

This delegation is limited and shall not apply to:

- (i) Any application which is accompanied by an Environmental Impact Statement.
- (ii) Any application which is defined as a significant departure from the adopted development plan as identified in planning circular 02/09 or in any successor document (see definition below) and where officers wish to approve the development.
- (iii) Any major or minor applications which are recommended to be approved contrary to the requirements of the Development Plan.
- (iv) Any application made by or on behalf of a District Councillor or his/her partner.

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

- (v) Any application made by any employee within the planning service or any employee of the Council of Principal Officer grade or above (or the partner of any such employee).
- (vi) Any major or minor application where 3 or more consultees object to a planning application and where officers would otherwise determine the application contrary to the specific representations raised by those consultees.
- (vii) Any major or minor application where 10 or more letters of representation are received which in the view of a Director raise material planning considerations and where officers would otherwise determine the application contrary to these representations.
- (viii) Any application which the ward councillor for the area where the proposal lies requests to be heard by the committee in writing within 21 days of the publication of the application in the weekly list and where the request gives valid material planning reasons for doing so. For the avoidance of doubt, matters such as the loss of a view, loss in value of a property or comments such as 'to allow this matter to be heard in the public arena' are not valid material planning considerations.
- (ix) Any proposed tree preservation order which is the subject of a valid objection.

### (c) Definitions

Significant departures are defined as following in circular 02/09 where the Local Planning Authority wishes to approve the proposal in terms of the following:

- (i) Inappropriate development on land allocated as Greenbelt in an adopted plan or development plan document which consists of:
  - (a) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more:

OR

  - (b) Any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Greenbelt.
- (ii) Development which includes or consists of retail, leisure or office use and which:

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

- (a) Is to be carried out on land which is edge of centre, out of centre or out of town; **AND**
- (b) Is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; **AND**
- (c) Consists of or includes the provision of a building or buildings where the floor space to be created by the development is:
- 5,000 square metres or more; **OR**
  - Extensions of new development of 2,500 square metres or more which when aggregated with existing floorspace, would exceed 5,000 square metres.
- (iii) Development having an adverse impact on the outstanding universal value, integrity, authenticity and significance of world heritage sites or their setting, including any buffer zone or its equivalent, and being development to which English Heritage has objected to and that objection not having been withdrawn.
- (iv) Playing field development where the land subject of the application:
- (a) Is land of a local authority; **OR**
- (b) Is currently used by an educational institution as a playing field; **OR**
- (c) Has at any time in the 5 years before the application is received been used by an education institution as a playing field; **AND**
- (d) Sport England has been consulted and has objected on one or more of the following grounds:
- That there is a deficiency in the provision of playing fields in the area of the Local Planning Authority;
  - That the proposed development would result in such a deficiency; **OR**
  - That the proposed development involves a loss of playing field and an alternative or replacement playing field is proposed, that alternative or replacement does not match (whether in quantity,

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

quality or accessibility) that which would be lost.

- (v) Major development in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw even after discussion with the Local Planning Authority.
- (d) Major applications are defined as follows:
- ten (10) or more units of residential accommodation
  - new commercial development over 1,000 square metres
  - change of use over 1,000 square metres
  - amendment or removal of a condition relating to a major development
  - site area exceeding 0.5 hectares where it is not known how many dwellings are to be created
  - development site area is one (1) hectare or more
- (e) Minor applications are defined as follows:
- Residential - 1-9 units (including change of use) or less than 0.5 hectare site area
  - Non-residential - 50-1,000 square metres floorspace or less than one (1) hectare site area
- (f) Others applications are defined as follows:
- Changes of use
  - Householder Development
  - Advertisements
  - Listed building consents (to demolish and alter/extend)
  - Conservation Area Consents
  - Certificate of Lawful Development

### **Licensing Functions**

The Lead Officers for Housing and Environmental Health and Enforcement are concurrently authorised to carry out the licensing and enforcement functions of the Council relating to

- (a) Taxi, food and miscellaneous licensing, health and safety and certain deposits on the highway as set out in Sections B, C and I(22) of Schedule 1 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force
- (b) Contaminated land, control of pollution and the management of air quality as set out in Schedule 2 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

- (c) Decisions as to the revocation of HMO licences under the Housing Act 2004
- (d) Smoke free premises under the Health Act 2006.
- (e) Motor salvage and scrap metal
- (f) Functions under the Licensing Act 2003 including applications for and variations to premises licences, club premises certificates and provisional statements where a relevant representation has been made and not withdrawn and imposing appropriate conditions\*
- (g) Licensing functions under the Gambling Act 2005
- (h) Limits and Controls

Licences and registrations may be issued, under delegated authority, but not refused.

to forward the observations of the Council to the Environment Agency in connection with the licensing of Disposal Sites only following consultation with the Ward Councillor(s);

### 13 Functions delegated to the Solicitor to the Council

- (a) To undertake all of the Council's functions in connection with:
  - (i) Local Authority Legal Services
  - (ii) Local Land Charges and Searches/Enquiries
  - (iii) Community Legal Service
  - (v) Data Protection and Freedom of Information
  - (vi) National Assistance Act 1948 and subsequent legislation
- (b) To deal with routine matters of day-to-day administration, management and control within the remit of the Solicitor to the Council or matters which are necessary for the proper performance of the Solicitor to the Council's terms of appointment.
- (c) To institute, defend, participate in or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, ensure the implementation of Council policy or to protect the Council's interests, including issuing instructions to Counsel.
- (d) To authenticate any documents necessary for the exercise of any function of the Council
- (e) To sign Statements of Truth in civil proceedings as required by the Civil Procedure Rules 1998.

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

- (d) Limits, controls and conditions
  - (i) To settle legal disputes after consultation with the appropriate Director up to a value of £25,000

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## APPENDIX 4



## **COUNCIL PROCEDURE RULES**

### **1. Annual Meeting of the Council**

#### **1.1 Timing and Business**

The Annual Meeting of the Council shall be held:

- (a) in a year when there is an ordinary election of councillors, on the eighth day after the retirement of councillors or on such other day within 21 days immediately following the retirement of the outgoing councillors, as the Council may fix;
- (b) in any other year, on such day in the month of May as the Council may fix.

The order of business at the Annual Meeting will be:

- (a) if the Chairman and Vice-Chairman are absent, to choose a person to preside, such person not being a member of the Executive;
- (b) to elect a Chairman and appoint a Vice-Chairman;
- (c) to approve the minutes of the last meeting;
- (d) to receive any announcements or communications from the Chairman and/or the Chief Executive;
- (e) to elect the Leader of the Council only where the Leader's term of office has expired or where the office of Leader is vacant;
- (f) to note the Members of the Executive as appointed by the Leader of the Council (only when the Members of the Executive's terms of office have expired or where there is a vacancy amongst the members of the Executive);
- (g) to appoint committees and to appoint Chairs and Vice-Chairs of committees in accordance with 1.2 below;
- (h) other business specified in the agenda.

#### **1.2 Selection of councillors on committees and outside bodies**

At the Annual Meeting, the Council will appoint the Standing Committees of the Council. The Standing Committees of the Council will be:

- Planning Committee – 12 [10] councillors
- Licensing and Appeals Committee -10 councillors
- Policy Review Committee – 9 [7] councillors
- Scrutiny Committee - 9 [7] councillors

- Audit Committee – 9 [7] councillors

The Council will also appoint Substitute Members to the Standing Committees who may exercise the powers set out in Rule 28 of these Rules.

Seats on committees shall be distributed among the political groups in proportion to their membership on the Council. Before the Annual Meeting of the Council, and at any other time that a review of the allocation of seats is required, the Chief Executive shall consult Group Leaders on the membership of committees and report to the Annual or next following meeting of the Council. Such consultations and report shall determine the allocation to the different political groups and recommend such appointments to give effect to the wishes of the political groups.

A political group shall contain a minimum of 2 councillors in order to be recognised for proportionality. The group leaders will notify the Chief Executive in writing of the membership of each group.

The Council shall also appoint the Chairs and Vice-Chairs of each Standing Committee and each Community Engagement Forum Partnership Board in accordance with the provisions of this Constitution.

The Council will appoint representatives to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable by the Executive.

### **1.3 Dissolution of Committees and Sub-Committees**

Any Committee or Sub-Committee may be dissolved by the Council at any time save that the Council must have at least one Overview and Scrutiny Committee.

## **2. Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme to be fixed by the Council. Ordinary meetings will:

- (a) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from councillors;
- (d) receive any communications which have been submitted before 5 pm on the day before a meeting, (except in the case of an emergency which will be determined by the Chief Executive), that the Chairman, Leader or Chief Executive may wish to give councillors;
- (e) receive any announcements from the Chairman, Leader, Members of

the Executive or the Chief Executive;

- (f) deal with any business required by statute to be done;
- (g) receive any reports from statutory officers of the Council;
- (h) receive petitions;
- (i) dispose of business (if any) remaining from the last meeting;
- (j) receive questions from and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting (see Rule 10.1);
- (k) receive and answer questions submitted by councillors, in accordance with Rule 11.2;
- (l) receive reports from the Executive and/or Leader and receive questions and provide answers on any of those reports;
- (m) receive reports from the Council's committees and receive questions and provide answers on any of those reports;
- (n) receive reports about and receive questions and provide answers on the business of joint arrangements and external organisations;
- (o) consider motions; and
- (p) 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.

### **3. Extraordinary Meetings**

#### **3.1 Calling Extraordinary Meetings**

The Chief Executive may call an Extraordinary Meeting of the Council. In addition those listed below may request the Chief Executive to call Council meetings in addition to Ordinary meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Leader;
- (d) the Monitoring Officer;
- (e) Chief Finance Officer; and

- (f) any 5 ~~[4]~~ councillors if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or
- has failed to call a meeting within 7 clear working days of the presentation of the requisition.

### **3.2 Business**

An Extraordinary meeting of the Council shall consider only such items of business as may be specified in the request for the meeting.

### **4. Time and place of meetings**

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

### **5. 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 Procedure Rules. At least 5 clear working days before a meeting, the Chief Executive will send a summons signed by him or her to every councillor 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.

### **6. Chairman 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 Chairs of committees and sub-committees.

### **7. Quorum**

The quorum of a meeting will be one quarter of the whole number of Members entitled to attend. During any meeting if the Chairman counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next Ordinary meeting.

### **8. Quorum of committees**

The quorum for a committee is one quarter of the whole number of the committee but shall not be less than ~~threetwo~~ three voting councillors.

### **9. Duration of meeting**

Unless the majority of councillors present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining

business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next Ordinary meeting.

## **10. Questions by the public**

### **10.1 General**

Members of the public may ask questions of the Chairman, Leader of the Council, Executive Member or Chair of a committee at Ordinary meetings of the Council during a period of up to 30 minutes set aside for the purpose.

### **10.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

### **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 noon 5 clear working days before the day of the meeting. Each question must give the name and address of the questioner.

### **10.4 Number of questions**

At any one meeting no person may submit more than one question 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 District;
- 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 6 months;
- relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action; or
- requires the disclosure of confidential or exempt information.

### **10.6 Record of questions**

The Chief Executive will immediately send a copy of the question to the councillor to whom it is to be put. Rejected questions will include reasons for rejection and the questioner will be so informed.

Copies of all questions will be circulated to all councillors and will be made



available to the public attending the meeting.

#### **10.7 Asking the question at the meeting**

The Chairman will invite the questioner to put the question, If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman 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 Supplementary question**

A questioner who has put a question in person may also put one supplementary question without notice to the person who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

#### **10.9 Written answers**

Any question which cannot be dealt with during public question time, because of lack of time or because of the non-attendance of the councillor to whom it was to be put, or because the answer is more conveniently given in writing will be dealt with by a written answer.

#### **10.10 Discussion**

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

#### **10.11 Public question time**

Public question time will be limited to 30 minutes in total, each questioner will be allocated not more than 5 minutes, 3 minutes for the original question and 2 minutes for one supplementary question. The response to any question will not exceed 3 minutes for the initial question and 2 minutes for a supplementary question.

#### **10.12 Presentations**

At the discretion of the Chairman, representatives of partner organisations, or potential partner organisations, may be invited to give presentations and answer questions, in relation to a specific item on the agenda.

### **11. Questions by councillors**

### **11.1 On reports of the Executive or committees**

A councillor may ask the Leader, Executive Member or Chair of a committee any question, without notice, upon an item relevant to their responsibilities. The Leader, Executive Member or Chair of a committee shall each have no more than 10 minutes to respond to such questions and any supplementary questions that may be asked

Each Councillor may ask of each postholder no more than one question and a related supplementary question.

### **11.2 Questions on notice at the Council**

Subject to Rule 11.4, a councillor may ask:

- the Chairman;
- the Leader;
- an Executive Councillor; or
- the Chair of any committee.

a question on any matter in relation to which the Council has powers or duties or which affects the District.

### **11.3 Questions on Notice at committees and sub-committees**

Subject to Rule 11.4 below a councillor who is a member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect and which fall within the terms of reference of that committee or sub-committee.

### **11.4 Notice of questions**

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

- (a) they have given at least 3 clear working days notice in writing or by electronic mail of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Chairman and the content of the question is given to the Chief Executive by noon on the day of the meeting.

### **11.5 Response**

An answer to a question under Rule 11.1, 11.2 and 11.3 may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer

circulated later to all councillors.

#### **11.6 Supplementary question**

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

#### **12. Petitions**

The Council will determine how to deal with or otherwise respond to the petition in accordance with the Petitions Procedure Rules set out in Part 4 of this Constitution.

#### **13. Motions on notice**

##### **13.1 Notice**

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by at least 5 councillors, must be delivered to the Chief Executive at least 7 clear working days before the date of the meeting.

##### **13.2 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 councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

##### **13.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the District and should not concern a matter that has been before Council within the preceding 6 months.

##### **13.4 Reference of motion to Executive or committee**

Motions for which notice has been given under 13.1 shall, upon being moved and seconded, stand referred to the Executive or committee as the Council may determine for consideration and report, unless the Chairman considers it convenient and conducive to the dispatch of business to allow the motion to be dealt with at the meeting at which it is brought forward.

Where a motion stands referred, the mover shall not speak until the report on the motion comes before the Council. The Executive or committee shall report back to the next Ordinary meeting of the Council or such other meeting as it may advise, and the report shall advise the Council whether or not the motion should be adopted or give such other advice as is appropriate.

**14. 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 councillor 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 hold a recorded vote;
- (j) to proceed to the next business;
- (k) to put a question to the vote;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to continue the meeting beyond 3 hours in duration – see Rule 9;
- (o) to extend the time limit for questions or speeches;
- (p) to suspend a particular Council Procedure Rule;
- (q) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (r) to not hear further a councillor named under Rule 23.3 or to exclude them from the meeting under Rule 23.4; and
- (s) to give the consent of the Council where its consent is required by this Constitution.

**15. Rules of debate**

**15.1 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.

**15.2 Right to require motion in writing**

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

**15.3 Secunder's speech**

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

**15.4 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 5 minutes without the consent of the Chairman. The time limit is not applicable to the annual 'State of the Area Address', the Budget Speech and budget proposals by the opposition or the responses given to them. The Chair's statement at committee shall not exceed 10 minutes.

**15.5 When a councillor may speak again**

A councillor 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 councillor;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply (see Rule 15.9);
- (e) on a point of order (see Rule 15.12); and
- (f) by way of personal explanation (see Rule 15.13).

**15.6 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, provided notice thereof is given before debate on the previous motion is closed.
- (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 accept any further amendments, or if there are none, put the substantive motion to the vote.
- (f) For the purposes of this paragraph, the debate shall be deemed to be closed when the mover of the motion starts to reply to the debate.

#### **15.7 Alteration of motion**

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

#### **15.8 Withdrawal of motion**

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

withdraw.

### **15.9 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.

### **15.10 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) to put the question to the vote;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to continue the meeting beyond 3 hours in duration – (Rule 9 above refers);
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (i) to not hear further a councillor named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

### **15.11 Closure motions**

- (a) A councillor may move, without comment, the following motions at the end of a speech of another councillor:
  - (i) to proceed to the next business;
  - (ii) to put the question to the vote;
  - (iii) to adjourn a debate; or

- (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she 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 to put the question to the vote is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she 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 Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **15.12 Point of order**

A councillor 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 Procedure Rules or the law. The councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### **15.13 Personal explanation**

A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor 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.

#### **16. State of the Area Address**

##### **(a) Nature of Address**

The Leader will make a 'State of the Area Address' annually on a date and in a form to be agreed, normally at the June Council meeting.

##### **(b) Form of Address**

The Leader will decide the form of the Address, with the aim of enabling the widest possible public discussion and publicity. This may include holding workshops and other events. The Leader will also attend the first convenient meeting of the <sup>4</sup>Policy Review Committee

<sup>4</sup> Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012



after the Address has been given to Council, answer questions on the Address, and consider the formal response of that committee in due course.

(c) Results of consequent discussions and deliberations:

The results will be:

- (i) reported to the Policy Review Committee;
- (ii) disseminated as widely as possible within the community and to agencies, organisations and the Council's key partnerships; and
- (iii) used as the basis for the proposed budgetary and policy framework which the Leader proposes to Council for the coming year.

**17. Themed debate**

The agenda for an Ordinary meeting of the Council may contain an item for consideration of a particular theme or subject on any matter within the Council's powers or duties or which affects the District. The Chairman may move that the Council Procedure Rules be suspended (in accordance with Rule 25.1 (Suspension) and Rule 25.2 (Amendment of Council Procedure Rules) to enable a speaker (who need not be a councillor) to address the Council on the theme or subject, and to deal with questions or comments either from councillors or from the public.

**18. Previous decisions and motions**

**18.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the past 6 months cannot be moved unless the notice of motion is signed by at least 7 [5] councillors.

**18.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past 6 months cannot be moved unless the notice of motion or amendment is signed by at least 7 [5] councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for 6 months.

**19. Voting**

**19.1 Majority**

Unless this Constitution and the law provides otherwise, any matter will be decided by a simple majority of those councillors present and voting in the

room at the time the question was put.

## **19.2 Chairman's casting vote**

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

## **19.3 Show of hands**

Unless a recorded vote is demanded under Rule 19.4, the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

## **19.4 Recorded vote**

~~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.~~

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<sup>2</sup>, or

(b) Any vote where, before the vote is taken on any matter before Council, any 6 [5] of the Councillors present at the meeting demand that the votes are recorded.

## **19.5 Right to require individual vote to be recorded**

Where any councillor 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.

## **19.6 Voting on appointments**

If there are more than 2 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. This principle will also apply where there is more than one

<sup>2</sup> The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 introduced a requirement for recording votes on budget meetings

position to be filled and there are more nominees than positions.

**20. Minutes**

**20.1 Signing the minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

**20.2 No requirement to sign minutes of previous meeting at Extraordinary Meeting**

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

**20.3 Form of minutes**

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

**21. Record of attendance**

All councillors 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.

**22. Exclusion of public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 24 (Disturbance by the public).

**23. Councillors' conduct**

**23.1 Standing to speak**

When a councillor speaks at the Council meeting they must stand and address the meeting through the Chairman. If more than one councillor stands, the Chairman will ask one to speak and the others must sit. Other councillors must remain seated whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

**23.2 Chairman standing**

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

### **23.3 Councillor not to be heard further**

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

### **23.4 Councillor to leave the meeting**

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

### **23.5 General disturbance**

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

## **24. Disturbance by the public**

### **24.1 Removal of a member of the public**

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

### **24.2 Clearance of part of meeting room**

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

## **25. Suspension and amendment of Council Procedure Rules**

### **25.1 Suspension**

All of these Council Procedure Rules except Rules 19.5 and 22 may be suspended by motion on notice or without notice if at least one half of the whole number of councillors are present. Suspension can only be for the duration of the meeting.

### **25.2 Amendment**

Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Ordinary meeting of the Council other than as a general review of the Constitution.

**26. Application to committees and sub-committees**

Unless a more specific meaning is explicit or implied by its context, reference to a committee throughout the Constitution shall be taken to mean any body of councillors appointed for a lawful purpose to undertake business on behalf of the Council, including but not only, committees, sub-committees, boards and working groups.

All of the Council Procedure Rules apply to meetings of the Council. None of the rules apply to meetings of the Executive. Only Rules 5, 6, 8, 9, 11, 12, 14, 15, 19, 20-24, 27, 28 and 31 apply to meetings of committees and sub-committees.

A Councillor who is not a member of a committee or sub-committee may attend any meeting but may only speak (but not vote) at the discretion of the Chair of the committee or sub-committee.

**27. Role of a committee Chair and Vice-Chair**

- (a) To chair meetings of the Council's committees so that the business of those committees can be carried out effectively and with regard to the rights of councillors and in the interest of the community.
- (b) To ensure that the provisions of the Constitution in relation to the conduct of meetings are observed.

**28. Appointment of substitute members of committees and sub-committees**

- (a) Powers and duties

Substitute councillors will have all the powers and duties of any ordinary member of a committee or sub-committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

- (b) Substitution

Substitute councillors may attend meetings in that capacity only:

- (i) where the Councillor who is giving apologies has notified the Democratic Services Manager before the commencement of the meeting of the intended substitution.

- (ii) to take the place of the ordinary councillor for whom they are the substitute;
  - (iii) where the ordinary councillor will be absent for the whole of the meeting; and
  - (iii) ~~after notifying the Chief Executive before the commencement of the meeting of the intended substitution.~~
- (e) ~~Substitution at Overview and Scrutiny Committees<sup>3</sup>~~

~~The Council resolved on 11 September 2012 to allow named substitutes for Overview and Scrutiny Committees on the same terms as those set out in Rule 28 (a) and (b) above~~

## 29. **Right to attend meetings by non-members of committees or sub-committees**

- (a) Any councillor can attend any committee or sub-committee meeting as of right but must sit apart from the body of the meeting and take no part.
- (b) Councillors who wish to speak on an item should declare this and may speak with the Chair's consent. The consent of the Chair will not be unreasonably withheld. If permission is granted ~~The~~ councillors will be allowed to speak after any presentation, but before the debate. The councillors will be allowed to speak for no more than 5 minutes.
- (c) Councillors who wish to speak on an item specifically related to the ward they represent will be allowed to participate in the debate as non-voting councillors for that specific item unless the law prevents them from so participating. (The Chief Executive will rule on any question concerning the relevance of items to specific wards).

## 30. **Public involvement at committees**

Where, in the opinion of the Chair, it is of value to a committee to hear relevant views from members of the public in relation to a specific item on the agenda, those views may be heard after any presentation by an officer on the item, but before the debate by councillors. The Chair will normally allow one person to speak on each item for a maximum of 5 minutes, any variation to be at the discretion of the Chair.

## 31. **Withdrawal from the meeting due to a Disclosable Pecuniary Interest<sup>4</sup>**

Where a Councillor (or co-opted member) has a disclosable pecuniary

<sup>3</sup> Amendment approved by Council on 11 September 2012

<sup>4</sup> Amendment approved by Council on 24 April 2012 for implementation on 1 July 2012

interest (as defined from time to time by regulations) that Councillor (or co-opted member) must withdraw from the meeting room, including from the public gallery, during the whole consideration of the relevant item of business, except where s/he is permitted to remain as a result of the grant of a dispensation.

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# APPENDIX 5





## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Community Engagement Forums, regulatory committees and public meetings of the Executive (together called meetings).
- 1.2 These rules also cover public rights of access to information, in relation to Council and Executive functions, including those under the Freedom of Information Act 2000, and Members' rights of access to information

### **2. Additional rights to information**

- 2.1 These rules do not affect rights to information contained elsewhere in this Constitution or provided by statute or at common law.

### **3. Rights of the Public to attend meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.

### **4. Notice of meeting**

- 4.1 The Council will give at least 5 clear working days' notice of any meeting by posting details of the meeting at its principal offices and on its website - [www.selby.gov.uk](http://www.selby.gov.uk)

### **5. Notice of Private Executive Meetings**

- 5.1 Where the Executive is likely to consider an item which contains exempt or confidential information and will require the public to be excluded from the meeting to prevent the disclosure of information, a notice must be published 28 clear days in advance of the meeting that includes a statement of the reasons for the meeting being held in private for that item. The notice should include details of how representations can be made.
- 5.2 Where the report contains confidential information as defined below the public must be excluded.
- 5.3 At least 5 clear days before the meeting a further notice will be published setting out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.
- 5.4 If the date of the meeting and the urgency of the decision makes compliance with this requirement impractical, the meeting may only be held in private with the agreement of the Chair of the relevant scrutiny committee, or if there is no such person the Chairman of the Council. As soon as reasonably

practicable after this permission is obtained a notice will be published setting out the reasons why the matter is urgent and cannot be reasonably delayed.

## **6. Public access to agenda and reports before the meeting**

- 6.1 The Council will make copies of the agenda and reports that are open to the public available for inspection at the designated office at least 5 clear working days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.
- 6.2 If an item is added to the agenda and the report is open to the public, the revised agenda will be open to inspection from the time the item was added to the agenda.
- 6.3 Moreover, that item will not be considered unless by reason of special circumstances, which shall be specified in the minutes and the Chair of the meeting agrees that it is urgent.

## **7. Supply of copies**

- 7.1 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.
- 7.2 The Council will supply copies of the following to any person on payment of a charge for postage and any other costs:
- (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 Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.
- 7.3 Copies of documents supplied to members of the public, where the Council is the copyright holder, may be reproduced in any publically available medium.

## **8. Access to minutes etc after the meeting**

- 8.1 The Council will make available copies of the following for 6 years after a meeting:
- (a) the minutes of the meeting or where appropriate records of decisions taken, 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.

## **9. Background papers**

### **9.1 List of background papers**

The author of every report considered at a meeting will set out a list of those documents (called background papers) relating to the subject matter of the report which:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report,

excluding any 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, or any draft report or document.

### **9.2 Public inspection of background papers**

Copies of any background papers for meetings of the Executive will be made available for inspection at the Council offices and published on the Council's website.

The Council will make available for public inspection for 4 years after the date of other meetings one copy of each of the documents on the list of background papers.

## **10. Summary of public's rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Rules, must be kept at and available to the public at the Council's principal offices. These Access to Information Procedure Rules constitute the written summary.

## **11. Exclusion of access by the public to meetings**

### **11.1 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.

## **11.2 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.

## **11.3 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 provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 the description of the exempt information giving rise to the exclusion of the public, and
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, public access to reports, background papers and minutes will also be excluded.

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.

## **11.4 Meaning of exempt information**

Exempt information means information falling within any of the categories set out in the following table, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972 (as amended).

Selby District Council Constitution Part 4 – Rules of Procedure  
Access to Information Procedure Rules

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	Information is exempt 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
2. Information which is likely to reveal the identity of an individual.	Information is exempt 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
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts or the Charities Act 2011.</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities</p>
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 officer-holders under the authority.	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter</p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt 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
6. Information which reveals that the authority proposes –	Information is exempt if and so long, as in all the circumstances of the case, the

Selby District Council Constitution Part 4 – Rules of Procedure  
Access to Information Procedure Rules

Category	Condition
(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	public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is exempt 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

Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

**11.5 Disorderly Conduct – discretion to exclude public**

The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting

**12. Record of decisions of meetings other than Executive meetings**

After any meeting of the Council or committees of the Council, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, 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.

**13 Records of decisions at Executive meetings**

After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:

- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;
- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

**14. Additional rights of access for councillors**

**14.1 Material relating to forthcoming business**

- (a) All Members are entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting unless
- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above; or
  - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
  - (iii) it contains the advice of a political adviser or
  - (iv) it is a draft report or draft background paper
  - (v) it is not a report or a background paper as defined in these Rules
- (b) All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless
- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above or
  - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

**14.2 Material relating to Key Decisions by Officers**

All Members of the Council will be entitled to inspect any document in the possession or under the control of the Executive or its committees which relates to any Key Decision made by an Officer unless any of the exceptions in these Rules apply.



**14.3 Nature of rights**

These rights of a councillor are additional to any other right he/she may have.

**15 Overview and Scrutiny Committee Members' access to documents**

**15.1 Rights to copies**

Subject to Rule 14.2 (Material relating to key decisions), any Overview and Scrutiny Committee Member will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business transacted at a public or private meeting of the Executive or its committees.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

**15.2 Limit on rights**

Overview and Scrutiny Committee Members will not be entitled to:

- (a) any document that is in draft form; or
- (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.
- (c) the advice of a political adviser or assistant.

Where the Monitoring Officer determines that Overview and Scrutiny Committees are not entitled to a copy of a document that has been requested for the reasons set out above, the Executive must provide the relevant Scrutiny Committee with a written statement setting out the reasons for that decision.

**16 MEMBERS ACCESS – NEED TO KNOW**

**16.1 Meaning of the Need to Know**

Members have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Director.

**16.2 The Nature of Requests**

Members should:

- (i) justify the request in specific terms, unless circumstances exist where a Member's need to know will be presumed – for example where a Member is on a committee and wants to inspect documents relating to that committee's business, or where the information requested is already in the public domain
- (ii) only use the information for the purpose for which it was provided, and get the prior agreement of the relevant Director to any disclosures to the press or the public

### **16.3 Limit on rights**

There are a number of factors which may limit or outweigh a Member's need to know, including:

- (i) the need to know does not extend to a 'roving commission' through Council documents
- (ii) the need to know would only extend to personal information in exceptional cases
- (iii) draft documents compiled in the context of emerging Council policies, and draft reports will not usually be disclosed
- (iv) a Member of one party group will not have a need to know in relation to a document prepared for another party group
- (v) documents prepared specifically for one Member will not, unless he/she agrees, normally be provided to another Member
- (vi) documents will not be disclosed where the relevant Director believes that use of those documents by a Member may prejudice the Council's or the public interest.
- (vii) the level of resources required to deal with locating and supplying documents.

### **16.4 Procedure**

Whether a Member has a need to know will be determined initially by the Director who holds the document in question (with advice from the Monitoring Officer). The Director must not have regard to party political advantage, nor must the Director's determination have the effect of preventing the Member concerned from giving evidence in Court, or of penalising the Member for so doing.

All internal documents and copies produced to any Member for inspection in accordance with this Rule will be produced on the basis that, in the absence of malice, officers are expressly indemnified in respect of any claim in

litigation that may result from such publication.

## **17 DISCLOSURE OF CONFIDENTIAL INFORMATION BY MEMBERS**

- 17.1 Where a decision has been made under these Rules to exclude public access on the basis that exempt information would otherwise be disclosed, the Council requires a Member who wishes to disclose that information to approach the relevant Director, for a decision whether that information should be disclosed. Disclosure by a Member will only be refused, if the Director decides that in the event the Council received an FOI request at that time, the Council would not be obliged to disclose that information. The Council also requires in every case, so far as reasonably practicable a Member must give the relevant Director reasonable notice of their intention to make such a disclosure.
- 17.2 In deciding whether the Council would be obliged to disclose that information in response to an FOI request, the relevant Director will give particular consideration to the public interest reasons for disclosure proposed by the Member, and to the Member's right of freedom of expression and the particular importance of that right for elected representatives.

## **18 PUBLIC ACCESS TO OTHER INFORMATION - FREEDOM OF INFORMATION**

- 18.1 Where a member of the public makes a request for information under the Freedom of Information (FOI) Act 2000, they will be informed in writing by the Council whether it holds such information, and if that is the case, they will have that information communicated to them, unless an exemption applies.
- 18.2 An FOI request must be in writing, state the name of the applicant and an address for correspondence, and describe the information requested. A request will be treated as made in writing where the text is transmitted by electronic means (e-mail), is received in legible form, and is capable of being used for subsequent reference.
- 18.3 FOI requests will be dealt with by the Lead Officer for the relevant service area.
- 18.4 FOI requests must generally be dealt with within 20 working days of receipt.
- 18.5 The Council will not comply with FOI requests where one or other of the exemptions applies. These include:

- information which is otherwise reasonably accessible

- information intended for future publication
- information where disclosure would be likely to prejudice
  - the national or local economy
  - crime prevention/detection, prosecutions, and certain civil proceedings
  - health and safety
  - commercial interests
- information provided in confidence
- personal information

18.6 In relation to most of the exemptions, the Council must also apply the 'public interest test. Even where the terms of an exemption seem to apply, the Council is still under a duty to disclose, unless the public interest in maintaining the exemption outweighs the public interest in disclosure.

## 19 RIGHTS OF APPEAL

### 19.1 Appeals against refusals of FOI requests

If an FOI request is refused by the Council, the applicant may request a review of that decision by the Solicitor to the Council. If the complaint does not result in the disclosure of the relevant information an applicant may then apply to the Information Commissioner for a decision as to whether the Council has complied with the relevant provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations.

### 19.2 Appeals where Public Access is denied to a Report or Background Papers

If a member of the public is denied access to a report or background papers under these Rules, they may appeal at the relevant meeting by giving notice in writing to the Democratic Services Manager, such notice to be received not less than 24 hours before the relevant meeting is due to be held. Any such appeal will be considered as the first item on the agenda.

### 19.3 Appeals where a Member is denied inspection of a document

If a Member is denied inspection of a document under their statutory rights or their need to know rights, they may appeal to the Chief Executive.

A decision made by a Director to withhold the inspection of any internal document shall be valid and remain in force unless and until altered on an appeal.

## 20. Filming and Recording of Meetings

Filming and recording at public meetings is permitted in accordance with the

Selby District Council Constitution Part 4 – Rules of Procedure  
Access to Information Procedure Rules

Openness of Local Government Bodies Regulations 2014.

The Council has adopted a protocol on Audio/Visual Recording and Photography at Meetings which is included in Part 5 of this Constitution.

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# APPENDIX 6



## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Application of Rules**

These rules apply to the Overview and Scrutiny Committees set out in Article 6 of this Constitution and to any of their sub-committees. For the avoidance of doubt the Council's statutory Overview and Scrutiny functions are performed by the Policy Review Committee and Scrutiny Committee only.

### **2. Composition and Terms of Reference**

All Councillors (except Members of the Executive) may be members of an Overview and Scrutiny Committee. However no Councillor may be involved in scrutinising a decision which he/she has been directly involved in.

Overview and Scrutiny Committees and their sub-committees may recommend to the Council the appointment of a number of people as non-voting co-optees. The Council shall determine the number of co-optees it may appoint.

The Terms of Reference for Overview and Scrutiny Committees are described in Article 6 of Part 2 and Paragraph 6 of Part 3 of this Constitution.

Overview and Scrutiny Committees and their sub-committees will be free of any party whip.

### **3. Meetings of the Overview and Scrutiny Committees and Sub-Committees**

There shall be not less than 2 ordinary meetings of each Overview and Scrutiny Committee each year. Additional ordinary meetings and 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 or by any 3 Members of the committee/sub-committee or by the Chief Executive, if he/she considers it necessary or appropriate.

### **4. Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

### **5. Who chairs meetings of the Overview and Scrutiny Committees?**

Chairs and Vice-Chairs of Overview and Scrutiny Committees shall be appointed by the Council and will be drawn from among the councillors sitting on the committee. The Chairs and Vice Chairs of Overview and Scrutiny Sub-Committees shall be appointed by the committee which establishes the sub-committee.



## 6. Work programmes and agenda items

Each year all Overview and Scrutiny Committees will formulate a work programme setting out their planned work for the year ahead. ~~Draft work programmes will be submitted to the Executive for comment and each Overview and Scrutiny Committee will take into consideration the views of the Executive before they present their work programmes to Council for approval. Except where an Overview and Scrutiny Committee agree that exceptional circumstances apply, the proposed Annual Work Programme will normally be submitted no later than the first ordinary Council meeting after the Annual Meeting.~~

Any member of an Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Chief Executive that he/she wishes to have an item relevant to the functions of that committee/sub-committee included on the agenda for the next practicable meeting. The Chief Executive shall comply with such requests.

Any councillor shall be entitled to give written notice to the Chief Executive to have an item included on an Overview and Scrutiny work programme. Such matters must be either relevant to the discharge of any function of the Authority or which affect all or part of (or any person who lives or works in) the area to which the councillor is elected. The appropriate committee or sub-committee will then decide whether to include that item and will notify the councillor (a) whether the item is to be included in its draft work programme (and if not why not) and (b) the outcome of any consideration of the substantive item.

Where the Council, or the Executive, asks Overview and Scrutiny to consider any particular matter the appropriate Overview and Scrutiny Committee, or the appropriate sub-committee, will adjust their work programme to the extent necessary to carry out that review and report back in writing to the Council or the Executive. The Council and/or the Executive shall consider the report of the committee/sub-committee within one month of receiving it.

## 7. Call-in

~~Call-in should only be used where councillors have evidence which suggests that the decision-maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).~~

- (a) ~~When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, principally by electronic means, and shall also be available at the main offices of the Council normally within 5 clear working days of being made. Councillors will be sent copies of the records of all such decisions within the same timescale and by the same means, by the person responsible for publishing the decision.~~

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- (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 5 clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.~~
- (a) Where a decision is made by the Executive or a key decision is made by an Officer under delegated powers it will be published in accordance with the Executive Procedure Rules and may be subject to Call-in.

Call-in should only be used where councillors have evidence which suggests that the decision-maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).

- (be) During the 5 clear working day period between a decision being published and its implementation the Chief Executive shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by any 5 councillors who are not members of the Executive and shall then notify the Executive of the call-in. He/she shall call an extraordinary meeting of the Scrutiny Committee where possible after consultation with the Chair, if an ordinary meeting will not be held within 7 clear working days from the date of the call-in request. The Chief Executive will notify the Executive and any other relevant councillors and officers of the call-in and the date on which it will be considered. Written requests will be a single document or a number of documents saying the same thing which taken together are received from 5 councillors.

Such a document or documents may be submitted electronically to the Chief Executive and the Chief Executive shall accept the validity of the document unless anything is brought to his/her attention which challenges its validity.

- (cd)<sup>†</sup> The sponsor of the “call in” or one of the other co-signatories shall present the grounds for the call-in and their concerns about the decision to the Scrutiny Committee. The Scrutiny Committee will then hear from any other relevant contributors and then debate and determine the matter. In reaching a decision on the matter the Scrutiny Committee may also comment on the validity of the “call-in”
- (df) Having considered the decision, the Scrutiny Committee may refer it back to the Executive for reconsideration, setting out the reasons in writing, providing any other information which might be useful to the Executive when it reconsiders the matter or it may refer the matter to Council.
- (ef) If the Scrutiny Committee fails to meet within 14 clear working days of receiving a valid call-in request, or does meet but does not refer the

<sup>†</sup> Amendment approved by Council on 11 September 2012

matter back to the Executive or on to Council, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 14 clear working day period, whichever is the earlier.

- (fg) If the matter was referred to 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 Executive, together with the Council's views on the decision. Within 20 clear working days of receiving the views of the Council the Executive shall decide whether to amend the decision or not before implementing it.
- (gh) If the Council does not refer the decision back to the Executive, the decision will become effective on the date of the Council meeting.
- (hi) 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 seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Executive the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council 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 Chairman, the Vice-Chairman's consent shall be required. In the absence of both the Chief Executive 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.
- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Chief Executive, and a report submitted to the Council with proposals for review if necessary.

## 8. The conduct of meetings

- (a) Overview and Scrutiny Committees and their sub-committees shall consider business in the following order:
  - (i) minutes of the last meeting;
  - (ii) any declarations of interest;
  - (iii) the forward plan
  - (iv) any response from the Executive to a previously-forwarded

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report;

- (iv) the business otherwise set out in the agenda for the meeting.
- (b) When an Overview and Scrutiny Committee or one of its sub-committees is conducting a review or investigation, it shall have the right to documents and other information as described in the Access to Information Procedure Rules set out in Part 4 of this Constitution.
- (c) Where an Overview and Scrutiny Committee conducts investigations they are to be conducted with the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the 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.
- (d) An Overview and Scrutiny Committee or any of its sub-committees (in relation to matters falling within their terms of reference) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council or Executive functions. It may require the Leader, any Member of the Executive or councillor, the Head of Paid Service and any Chief Officer or Director to attend before it to explain, in relation to their remit, the following:
  - (i) any particular decision or series of decisions and the reasons for them,
  - (ii) the extent to which any action or lack of action affects the Council and/or implements Council policy;
  - (iii) performance and outcomes in relation to the areas under their control.

It is the duty of those persons to attend if required, but such attendance will follow written notice from the Chief Executive, who will give to the relevant person at least 7 clear working days notice in writing or by electronic mail of the meeting at which he/she is required to attend. The notice will indicate the nature of the item and whether there is a requirement to produce any papers or other background information, or whether a report is required.

If, exceptionally, the relevant councillor or officer is unable to attend on the required date, an alternative date may be arranged by mutual

agreement.

An Overview and Scrutiny Committee or any of its sub-committees may invite persons other than those set out above to give evidence, including individuals from outside the Council or from other organisations. In this case attendance is voluntary.

If there is a wish for officers below Director level to give evidence, then that attendance shall only be with the agreement of the Head of Paid Service or a Chief Officer.

- (e) Following any investigation or review, an Overview and Scrutiny 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.

## **9. Reports from Overview and Scrutiny Committees and Sub-Committees**

At the conclusion of any Overview and Scrutiny activity the committee or sub-committee will publish and submit its views, findings or recommendations, in writing, to any appropriate body of the Council, an officer or relevant partner/outside organisation.

Where such a report is submitted to a body of the Council or an officer the Chief Executive shall ensure that suitable arrangements are made so that the report is considered and that a response is reported back to the Overview and Scrutiny Committee or sub-committee within 2 months. Where the original submission was published, the response shall also be published and where the original submission was copied to separate individuals, the response shall also be circulated to the same individuals. Where a report is made to an outside organisation the Chief Executive shall request consideration of it and a response.

The Chair of the Overview and Scrutiny Committee or sub-committee which has submitted the report shall be entitled to attend any meeting of the Council, its committees or the Executive to present the report.

Any report or response to or from Overview and Scrutiny shall exclude any confidential information and may exclude any exempt information. Where such exclusions are made a summary should be included which does not disclose the confidential or exempt information.

## **10. Joint Overview and Scrutiny Committees**

The Council may decide to participate in Joint Overview and Scrutiny Committees for the purpose of securing local improvement targets.

## APPENDIX 7



## **OFFICER EMPLOYMENT PROCEDURE RULES**

These Rules incorporate the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 ('the Regulations').

### **1. Appointment to be on merit**

All appointments shall be made on merit irrespective of age, race, disability, ethnicity, gender, or religion and belief or political beliefs or sexual orientation or other protected characteristic.

### **24. Recruitment and appointment**

#### **(a) Declarations**

- (i) All applicants will be required to disclose whether or not they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an officer and/or a councillor at Selby District Council or the partner of such persons. Applicants failing to disclose such a relationship will be disqualified from the appointment, or if appointed, will be dismissed without notice.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Chief Officer, Director 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.

### **32. Recruitment of officers**

Where the Council proposes to appoint an 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) to be sent to any person on request.

**43. Appointment of Head of Paid Service, Monitoring Officer, Chief Officers and Section 151 Officer**

- (a) Subject to Rule 4 below, the Council will approve the appointment of the Head of Paid Service and Monitoring Officer following the recommendation of such an appointment by an Appointments Panel of the Council.
- (b) Subject to Rule 4 below, an Appointments Panel of the Council will appoint Chief Officers (except the Head of Paid Service) and the officer with Section 151 responsibilities.

(For the purposes of Rules 3 (a) and (b) an Appointments Panel shall be politically balanced and comprise a minimum of 4 and a maximum of 6 councillors including the Leader and relevant Executive Member(s)).

**54. Offer of appointment as Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer.**

An offer of appointment as Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer must not be made by the Council until:

- (a) the Appointments Panel has notified the Proper Officer of the name of the person to whom an offer is proposed and any other particulars which it considers are relevant to the appointment;
- (b) the Proper Officer has notified every Member of the Executive of:
  - (i) the name of the person to whom an offer is proposed;
  - (ii) any other particulars relevant to the appointment which have been notified to the Proper Officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Proper Officer; and
- (c) either:
  - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Appointments Panel that neither he/she nor any other Member of the Executive has any objection to the making of the offer;

- (ii) the Proper Officer has notified the Appointments Panel that no objection was received by him/her within that period from the Leader; or
- (iii) the Appointments Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

(For the purposes of this paragraph 'Proper Officer' means an officer appointed by the Council for this purpose in accordance with the Regulations and can be a different officer depending on the appointment being made).

**65. Disciplinary action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than 2 months.
- (b) **Independent person.** No other disciplinary action other than suspension as set out above 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', as defined by and appointed in accordance with the powers set out in Regulation 7 of the Regulations.

**76. Dismissal of Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer**

- (a) In this paragraph, 'dismissor' means, in relation to the dismissal of an officer of the Council, the authority or, where a committee or sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, or sub-committee or other officer, as the case may be. Where a committee or sub-committee is formed for this purpose, at least one Member of the Executive must be a Member of that committee/sub-committee which must otherwise be politically balanced.
- (b) Subject to paragraph 5, notice of the dismissal of the Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer must not be given by the dismissor until:
  - (i) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (ii) the Proper Officer has notified every Member of the Executive

of:

- the name of the person who the dismissor wishes to dismiss;
- any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
- the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the Proper Officer; and

(iii) either:

- the Leader has, within the period specified in the notice under sub-paragraph (b)(ii), notified the dismissor that neither he/she nor any other Member of the Executive has any objection to the dismissal;
- the Proper Officer has notified the dismissor that no objection was received by him/her within that period from the Leader; or
- the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

(For the purposes of this paragraph 'Proper Officer' will have the same meaning as paragraph 4 and as defined in the Regulations).

- (c) In the case of the Head of Paid Service, the Council must approve that dismissal before the notice of dismissal is given.

## **87. Other Officers**

- (a) **Officers other than those referred to in rules 3, 4, 5 and 6 above** Appointment, dismissal, or the taking of disciplinary action against all other officers is the responsibility of the Head of Paid Service or an officer nominated by him/her.
- (b) Except as reserved herein, disciplinary action shall be discharged by the Head of Paid Service or by an officer nominated by him/her and in accordance with the procedures adopted and/or amended by the Council from time to time.
- (cb) Councillors will not be involved in the appointment, dismissal or discipline of any officer below Chief Officers, the Section 151 Officer or the Monitoring Officer.

## **8. Appointment to be on merit**

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- (a) ~~All appointments shall be made on merit irrespective of age, race, disability, ethnicity, gender, or religion and belief or political beliefs or sexual orientation.~~
- (b) ~~Except as reserved herein, disciplinary action shall be discharged by the Head of Paid Service or by an officer nominated by him/her and in accordance with the procedures adopted and/or amended by the Council from time to time.~~

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## APPENDIX 8



## **EXECUTIVE PROCEDURE RULES**

### **1. Role and Composition of the Executive**

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The allocation of responsibilities is set out in Part 3 of this Constitution.

The Executive will consist of the Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader.

### **2. Delegation of Executive Functions**

**2.1** At the Annual Meeting of the Council, the Leader will present a report containing the following information regarding the discharge of executive functions in the forthcoming year:

- (a) The names of the councillors he/she appoints to the Executive.
- (b) The terms of reference and constitution of any Executive committees the Leader appoints and the names of the councillors appointed to them.
- (c) The nature and extent of any delegation of an Executive function to an individual member of the Executive, with details of limits on those delegations and the name of the councillor to whom the delegation is made.
- (d) The nature and extent of any delegation of an Executive function to officers, with details of limits on those delegations and the title of the officer to whom the delegation is made.
- (e) The nature and extent of any delegation of an Executive function to any Community Engagement Forum, other authority, or any joint arrangements including names of the Executive Members appointed to serve under those arrangements.

**2.2** The Leader 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. Any changes will take effect on the day after the notice is given to the Chief Executive. The Chief Executive will present a report to the next Ordinary meeting of the Council setting out the changes made by the Leader.

**2.3** Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it



on its Chair.

### **3. Appointments**

#### **3.1 Election of Leader**

The Leader will be elected by the Council from the elected councillors. That election will be made at the Annual Meeting of the Council immediately following an ordinary election of councillors or at a subsequent meeting if no such appointment is made and the Leader will remain in office for a period of 4 years until either:

- (a) the next Annual Meeting of the whole Council immediately following an ordinary election of councillors; or
- (b) the Leader ceases to be a Selby District councillor; or
- (c) the Council, by a majority vote of those present in response to a Notice of Motion submitted in accordance with the Council's rules, decides to remove the Leader from office; or
- (d) the Leader is suspended from being a councillor under Part III of the Local Government Act 2000; or
- (e) the Leader resigns as Leader.

#### **3.2 Role of the Leader**

- (a) To provide strategic vision and leadership to the political administration of the Council.
- (b) To promote excellence in the delivery of public services.
- (c) To represent the Council and its political administration in the community.
- (d) To develop and maintain effective relationships with the Council's Chief Executive, Chief Officers and Directors.
- (e) To encourage co-operation and communication across political and Council boundaries.

#### **3.3 Key Tasks of the Leader**

- (a) To provide political leadership to the Council.
- (b) To act as a role model for appropriate behaviour, ethical practice and democratic processes.

- (c) To act as the main political spokesperson within and outside the Council.
- (d) To answer and account to the Council and the community for the delivery of services and the performance of the Council.
- (e) To challenge the performance of the Council in order to achieve improvement and excellence.

### **3.4 Appointment of Deputy Leader**

The Leader shall appoint a member of the Executive to serve as Deputy Leader. The term of office of the Deputy Leader shall be 2 years but it will be open to the Leader to revoke the appointment and appoint a new Deputy at any time.

### **3.5 Role of Deputy Leader**

The Deputy Leader shall exercise all of the powers and duties of the Leader if the Leader is unable to act in that capacity or the post of Leader is vacant.

### **3.6 Appointment of Executive Councillors**

The Leader shall appoint at least 2 and no more than 9 elected councillors to serve on the Executive.

In the event of an Executive Member resigning or otherwise being removed from office as an Executive Member the Leader shall make a new appointment or otherwise report to the Council with any new arrangements for the discharge of executive functions. The normal term of office of an Executive Member shall be 2 years.

### **3.7 Role of Executive Councillors**

- (a) To assist and support the Leader in making strategic decisions on behalf of the Council.
- (b) To take a lead in an area of policy, or in relation to an aim, objective, priority or activity as the Leader may determine from time to time.
- (c) To promote and maintain high standards of conduct by members.
- (d) To represent the Council and its political administration in the community.

- (e) To influence and determine the development and review of the Council's policies, strategies, budget and service delivery.
- (f) To liaise with the Council's Chief Executive, Chief Officers and Directors.
- (g) To represent the Council on outside bodies and partnerships.

### **3.8 Key Tasks of Executive Councillors**

- (a) To contribute towards developing and implementing new policy, strategy, programming, budget and service standards, and leading performance review.
- (b) To act as spokesperson within and outside the Council on matters allocated by the Leader from time to time.
- (c) To act as a role model for appropriate behaviour, ethical practice and democratic processes.
- (d) To provide advice and guidance to authorised officers in the execution of delegated authority where that authority requires prior consultation.
- (e) To answer and account to the Council and community for matters within the Executive's remit.

## **4. Decisions of the Executive**

Executive decisions will be made either:

- (a) by the Executive as a whole; or
- (b) by a committee of the Executive; or
- (c) by an individual member of the Executive; or
- (d) by an officer acting under delegated powers, the Scheme of Officer Delegation being set out in Part 3 of this Constitution; or
- (e) by joint arrangements; or
- (f) by another local authority.

Where the Executive as a whole, a committee of the Executive or an individual member of the Executive is responsible for an Executive function, they may in turn delegate that function to an officer or to joint arrangements, but the delegation of the function will not prevent the discharge of that function by the delegating body.

## **5. The Forward Plan**

### **5.1 Period of Forward Plan**

The Leader will prepare a Forward Plan which must list all key decisions which the Executive anticipates that they will take during the next four months. The most recent Forward Plan will be taken to supersede any other plan.

### **5.2 Content of Forward Plan**

The Forward Plan will include the following information in respect of each key decision:

- (a) the matter in respect of which a decision is to be made;
- (b) the person or body by whom the decision is to be made;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the steps any person might take who wishes to make representations to the 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
- (e) a list of the documents (which are available to the public) submitted to the decision-taker for consideration in relation to the matter.

### **5.3 Publication of Forward Plan**

The Forward Plan must be published at least 28 clear days before the start of the period covered.

### **5.4 Procedure before taking key decisions**

Subject to Rule 5.5 (general exception) and Rule 5.6 (special urgency), a key decision may not be taken unless:

- (a) a notice (in the 'Forward Plan') has been published in connection with the matter in question;
- (b) at least 28 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 6.2 (Notice of Meeting).

## **5.5 General exception**

If a matter which is a key decision has not been included in the Forward Plan, then subject to Rule 5.6 (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 to ensure that notice has been published within 28 clear days of the meeting.
- (b) the Proper Officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about 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 on the Council's internet site.
- (d) at least 5 clear working days have elapsed since the Chief Executive complied with (b) and (c).

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

## **5.6 Special urgency**

If by virtue of the date by which a decision must be taken Rule 5.5 (general exception) cannot be followed, then the decision can only be taken if the Chair of the body making the decision obtains the agreement of the Chair of the Scrutiny Committee that the decision cannot be reasonably deferred and that the decision is genuinely urgent.

If there is no Chair of the Scrutiny Committee, or if the Chair of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice. If the relevant person does not agree that the decision may be reasonably regarded as urgent in the circumstances then the decision cannot be taken other than in accordance with these Rules.

As soon as practicable after agreement has been obtained, a notice must be made available at the Council's offices setting out the reasons that the making of the decision is urgent and cannot reasonably be deferred.

This notice must also be published on the Council's internet site.

## **5.7 Report To Council on special urgency decisions taken**

The Leader will submit at least annually a report to the Council on the Executive decisions taken in the circumstances set out in Rule 5.6 (special urgency) in the period since the last report was submitted. The report will include the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## **6. Meetings of the Executive**

### **6.1 Frequency and location of Meetings**

The Executive will normally meet on a monthly cycle, at such dates and times as shall be determined by the Leader and notified to the Council at its Annual Meeting.

The Executive shall meet at the Council's principal offices or at such other location as the Leader may from time to time determine.

### **6.2 Notice of and Public Access to Meetings and Agendas**

Notice of the time and place of an Executive meeting will be given by publishing the Agenda together with the reports to be considered on the Council's website at least 5 clear working days before the meeting or at the time that the meeting is convened if that is less than 5 clear working days before the meeting. Reports for items added to the Agenda will be published when the item is added.

All meetings of the Executive shall be in public in accordance with the Access to Information Procedure Rules, set out in Part 4 of this Constitution subject to Rule 6.3 below. This does not preclude meetings which involve private, informal, discussion between Executive Members and others.

Any councillor may attend any meeting of the Executive as a member of the public, but there is no right for non-Executive Members to speak or vote at Executive meetings.

The Statutory Officers of the Council shall have the right to attend any meeting of the Executive and shall be entitled to speak on issues affecting their statutory responsibilities.

### **6.3 Notice of Private Executive Meetings**

Where the Executive is likely to consider an item which contains exempt or confidential information and will require the public to be excluded from the meeting to prevent the disclosure of information, a notice must be published 28 clear days in advance of the meeting that includes a statement of the reasons for the meeting being held in private for that item. The notice should include details of how representations can be made.

At least 5 clear days before the meeting a further notice will be published setting out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.

Where the report contains confidential information as defined in the Access to Information Procedure Rules, the public must be excluded.

If the date of the meeting and the urgency of the decision makes compliance with this requirement impractical, the meeting may only be held in private with the agreement of the Chair of the relevant scrutiny committee, or if there is no such person the Chairman of the Council. As soon as reasonably practicable after this permission is obtained a notice will be published setting out the reasons why the matter is urgent and cannot be reasonably delayed.

#### **6.4 Agenda**

The Agenda will generally follow the format below

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Executive (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) consideration of reports from Overview and Scrutiny Committees;
- (e) reports from Statutory Officers in respect of their functions;
- (f) the items of business set out in the agenda for the meeting.

The items of business set out in the Executive Forward Plan and in the agenda will indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules.

#### **6.5 Who can put items on the Executive agenda?**

The Leader may put on the agenda of any Executive meeting any matter which he/she 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 he/she 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 an Overview and Scrutiny Committee or the Council has resolved that an item be considered by the Executive. However, there may only be up to 3 such items on any one agenda.

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 one such item per Executive meeting unless the Leader exercises a discretion to allow more than one.

The Head of Paid Service, 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.

#### **6.6 Quorum**

The quorum for a meeting of the Executive or a committee of the Executive shall be 3.

#### **6.7 Substitutions**

Substitutes are not permitted for Executive Members, but the absence of an Executive Member shall not prevent consideration and determination of any matter if a quorum is present.

#### **6.8 Conflicts of interest**

If a conflict of interest arises during the consideration of any matter which is an Executive function, it will be dealt with in accordance with the Code of Conduct for Councillors set out in Part 5 of this Constitution.

If during the exercise of an Executive function that has been delegated a conflict of interest arises, then the function will in the first instance be exercised instead by the body or person by whom the delegation was made or otherwise in accordance with the Code of Conduct for Councillors, set out in Part 5 of this Constitution.

### **7. Record of decisions at Executive meetings**

After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:



- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;
- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

## 8. Call-in

Call-in should only be used where councillors have evidence which suggests that the decision-maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).

- (a) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, principally by electronic means, and shall also be available at the main offices of the Council normally within 5 clear working days of being made. Councillors will be sent copies of the records of all such decisions within the same timescale and by the same means, 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 5 clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.
- (c) During the 5 clear working day period between a decision being published and its implementation, the Chief Executive shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by any 5 councillors who are not members of the Executive and shall then notify the Executive of the call-in. He/she shall call an extraordinary meeting of the Scrutiny Committee where possible after consultation with the Chair, if an ordinary meeting will not be held within 7 clear working days from the date of the call-in request. The Chief Executive will notify the Executive and any other relevant councillors and officers of the call-in and the date on which it will be considered. Written requests will be a single document or a number of documents saying the same thing which taken together are received from 5 councillors.

Such a document or documents may be submitted electronically to the Chief Executive and the Chief Executive shall accept the validity of the document unless anything is brought to his/her attention which challenges its validity.

## APPENDIX 9



### LOCAL COUNCILLOR CONSULTATIVE CHARTER

The Council is committed to providing its Elected Councillors with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Ward and where circumstances render it appropriate to involve a Local Councillor.

1. Directors and staff will be continually vigilant to identify such matters and ensure that Local Councillors are informed accordingly.
2. Directors will ensure that all correspondence/enquiries from Local Councillors are dealt with promptly and if necessary Councillors will be kept advised of progress.
3. Any matter of significance or sensitivity which relates to a particular Ward will be discussed with the Local Councillor(s) concerned before being submitted for a decision by the Executive or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained. However, it does not prevent the Executive or officers from considering such matters in advance of a formal recommendation or decision as this consultation is required only when a settled intention to proceed with an option or options affecting the Ward have been reached.
4. Directors and staff will regularly brief appropriate Executive Councillors on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
5. Details of any petitions received which relate to matters in a particular Ward will be sent to the Local Councillor(s) concerned. In addition, copies will also be provided to the Leader. Local Councillors will be kept informed on the progress/outcomes of such petitions.
6. Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Parish/Town Councils and the Local Government Ombudsman which relate to matters of any significance or sensitivity in a particular Ward will be sent to the Local Councillor(s) concerned.
7. Copies of all correspondence with MPs and MEPs which relate to matters in a particular Ward will be sent to the Local Councillor concerned. In addition, copies will also be provided to the Leader.
8. Access Selby will provide every Councillor with an Officer contact guide for the services they provide, including where appropriate local contacts.
9. Wherever appropriate Access Selby will make Local Councillors aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of Council projects, schemes, exhibitions etc.
10. In certain instances, both Councillors and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Councillor(s) concerned a single response to such enquiries.
11. As part of a continual review of the Charter's effectiveness, the co-operation of Councillors is sought in the responsible use at all times of advice and information that is provided to them, and Councillors are encouraged to advise Officers of the information

requirements and of any local circumstances or sensitivities which might have a bearing on the Council's work.

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# APPENDIX 10



## **CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS**

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### **1. INTRODUCTION**

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
  - 1.3.1 Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3 Councillors should make decisions on merit.
  - 1.3.4 Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - 1.3.5 Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6 Councillors should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Councillors and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications



for the position of individual elected Councillors and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.

- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

## **2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Councillors involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Councillors shall provide:
- 2.7.1 Impartial and professional advice;
- 2.7.2 Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its

Councillors or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is.

- 2.10 If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Councillors to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.12 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

### **3. COUNCILLORS INTERESTS AND ALLEGATION OF BIAS**

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its planning merits, Councillors should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Planning Committee Councillors who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:-
  - 3.4.1 from being closely aligned with ward campaigns or issues;
  - 3.4.2 from membership of other Committees of the Council;
  - 3.4.3 from membership of other public or community bodies;
  - 3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);

- 3.4.5 from a connection with a particular policy initiative of the Council;
- 3.4.6 from membership of clubs, societies and groups; and
- 3.4.7 from hobbies and other leisure interests.

Such interests may mean that a Councillor is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee providing that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

- 3.5 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

#### **4. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

- 4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 4.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an interest and take no part in the discussion and determination of that proposal, except where they are the local Councillor when they may speak on matters of local concern but shall not vote.
- 4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

#### **5. STATUTORY DUTIES**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

##### **5.1 Equality Act 2010**

Section 149 provides that:

- 5.1.1 A council must, in the exercise of its functions, have due regard to the need to:-
  - (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

5.1.2 The above powers relate to the following protected characteristics:-

- (a) Ages;
- (b) Disability;
- (c) Gender reassignment;
- (d) Marriage and civil partnership;
- (e) Pregnancy and maternity;
- (f) Race (including colour, nationality and ethnic or national origins);
- (g) Religion or belief;
- (h) Sex; or
- (i) Sexual orientation.

## 5.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

"It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right."

## 5.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

## 5.4 **Crime and Disorder**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

## 6. **LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Councillor or members of the Planning Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.

- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Planning Committee Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
- 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
  - 6.4.2 only give procedural advice;
  - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors (other than when addressing the Planning Committee). Councillors shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local Councillor who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (representing the views of their ward) but not vote. The Councillor for an adjacent ward substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, also be allowed to attend and speak but not vote. A local Councillor who has an interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare an interest and not vote or decide on the matter. However, that Councillor shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 6.8 Councillors of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Councillor cannot be instructed how to exercise their vote on a planning matter.

- 6.9 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

## **7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Councillors need to preserve their role as impartial decision makers and members of Planning Committee should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when other Councillors are involved, it should be part of a structured arrangement with Officers. Councillors must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

## **8. OFFICER REPORTS TO COMMITTEE**

- 8.1 The Lead Officer - Planning will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Lead Officer - Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Lead Officer - Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

8.3 The Lead Officer - Planning will have available for inspection by Councillors the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## 9. PLANNING CONSIDERATIONS

9.1 Planning decisions should be made on material planning considerations and should not be based on immaterial considerations.

9.2 Members of Planning Committee should attend training sessions which may be organised from time to time. All other Councillors are encouraged to attend.

9.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.

9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:-

9.4.1 the Development Plan;

9.4.2 Government Guidance;

9.4.3 Supplementary Planning Documents adopted by the Council;

9.4.4 non-statutory planning policies adopted by the Council;

9.4.5 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;

9.4.6 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;

9.4.7 representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;

9.4.8 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.

9.5 it should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.

9.6 It is the responsibility of officers in preparing reports and recommendations to Councillors to identify the material planning considerations and warn Councillors about those matters which are immaterial planning decisions.

9.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.

- 9.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 9.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 9.10 It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## **10. THE DECISION MAKING PROCESS**

- 10.1 Councillors shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.4 Where the Planning Committee decide to adopt the recommendation of the Lead Officer - Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 10.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Lead Officer - Planning, or the Development Plan, if agreement can be reached at the meeting rather than deferring the item, the planning reasons for that decision shall be fully minuted.
- 10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

## **11. SITE VISITS BY THE COMMITTEE**

- 11.1 A site visit may be held if the Lead Officer - Planning in consultation with Chair of the relevant committee considers it will assist Councillors in reaching their decision or where a site visit has been requested or an application deferred for such a visit. Site visits should only be undertaken where there is a reason to do so. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material.
- 11.2 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all Councillors attending the Planning Committee should also attend the site visit. Councillors voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be



fully informed about the application. Information gained from the site visit should be reported back to committee so that all Councillors have the same information.

- 11.3 Site visits should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.
- 11.4 The organisation of the site visit will fall to the planning officer, who will inform Democratic Services of the need to send out site visit invites to the following:
- All Members of the Planning Committee including nominated substitutes
  - Relevant Ward Members
  - Relevant Parish Councillors
- 11.5 The Applicant/Agent will be informed that a site visit will take place in order to ensure that site access can be arranged. This is arranged by the planning officer due to their ongoing contact with relevant applicants/agents.
- 11.6 Objectors/supporters of the applicant will be invited to attend the site visit at the discretion of the Chair of the Planning Committee.
- 11.7 No opportunity for speaking, debate or giving opinions will be afforded to the Agent/Applicant or other parties e.g. Parish Councillors, Ward Councillors, neighbours or objectors who attend the site. The only exception to this is if the Chair of the Planning Committee permits a response to questions of fact asked by the members of the Committee.
- 11.8 The site visit will be attended by the relevant planning officer(s) who will answer any questions raised. The planning officer(s) will describe the development and point out the relevant issue(s) that the Committee has come to view.
- 11.9 On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will explain the application as it relates to the site and relevant viewpoints. Following any questions to the planning officer, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
- 11.10 Members of the Committee should address any request for clarification through the Chair of the Planning Committee. Questions should not be directed to the applicant/agent, parish councillors, local Ward Councillors or other third parties present. Should the Chair deem it appropriate, those present may be requested to respond to questions of fact only.
- 11.11 Councillors should not engage in open discussion either individually or in groups with the applicant or any other people present. Any request for Councillors to express a view or accept an offer of hospitality should be politely declined.
- 11.12 Unofficial site visits are not encouraged as they do not have the appropriate procedural safeguards. Any Councillor attending an unofficial site visits must ensure that they avoid giving the impression that he/she represents the views of the Planning Committee or the Council. If a Councillor feels compelled to give a personal view, he/she should emphasise that the final decision is one for the Planning Committee.

## **12. PUBLIC SPEAKING AT PLANNING COMMITTEE**

12.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Councillors have the opportunity to inspect all letters received before the decision on the application is made.

12.2 The council operates a scheme of public speaking at planning committee meetings. Normally the following people can speak at Planning Committee in relation to any specific application.

- One speaker representing the applicant – usually the applicant themselves or their agent.
- One speaker representing the objectors.
- The relevant Parish Council representative.
- A Ward Member.

In exceptional circumstances the Chair has discretion to allow any other person to speak if it is considered necessary to do so.

### *Order of Speakers*

1. The objector has five minutes to put their case.
  2. A representative of the relevant parish council then has five minutes to put their case.
  3. A ward member who wishes to speak on the application will be allocated five minutes to put their case.
  4. At the appropriate time any other person allowed to speak at the discretion of the Chairman will be allowed five minutes to put their case.
  5. Finally the applicant, or their representative, will be allowed five minutes to put their case.
- 12.3 The speaker representing the applicant must have the permission of the applicant to represent him/her.
- 12.4 The speaker representing the objector(s) can be a neighbour, an interested individual or a representative of a residents group.
- 12.5 The first objector to register to speak will normally be appointed as the spokesperson. Where there is more than one person wishing to speak, objectors are encouraged to agree on a spokesperson who is prepared to cover all the points of concern, so as to make best use of the time available.
- 12.6 Persons wishing to speak on an application, which is to be considered at a Planning Committee and who have previously made representations on the application should contact the Public Speaking Officer on 01757 292037 before 3.00pm on the Monday prior to the Committee meeting.

**No late notification will be accepted and speakers cannot “turn up” to speak at Committee without the due notice being given.**

- 12.7 The purpose of the scheme is to enable speakers to put forward any points they wish to make directly to the Committee. There will be no need to read any submission already made in writing, as this will already be summarised in the report Councillors have before them.
- 12.8 Speakers should confine their comments to matters relevant to planning applications.
- 12.9 People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting.
- 12.10 The Chair of the Committee retains the right to decline to hear someone if they behave improperly, offensively or if they, in the Chair's view, intentionally obstruct the business in hand.
- 12.11 Officers may comment on the representations and the merits of the application in the light of those representations
- 12.12 The Committee will proceed to debate the application and make a decision.

### **13 REVIEW OF DECISIONS**

- 13.1 The Audit Commission's Report, 'Building in Quality', recommended that elected Councillors should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 13.3 Attendance at the review site visits shall be restricted to members of the committee and the local Councillor(s).

### **14. TRAINING**

- 14.1 Councillors should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 14.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out your role properly and effectively.

# APPENDIX 11



## **CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH LICENSING MATTERS**

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### **1. INTRODUCTION**

- 1.1 Premises Licensing affects land and property interests, including the financial value of land and the quality of their settings. Personal Licences affect individuals. Licensing is often highly contentious because decisions affect the daily lives of everyone. Opposing views are often strongly held by those involved.
- 1.2 The licensing system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council.
- 1.3 The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
  - 1.3.1 Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3 Councillors should make decisions on merit.
  - 1.3.4 Councillors should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
  - 1.3.5 Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6 Councillors should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Licensing decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Councillors and Officers of the Council shall follow when involved in licensing. Licensing matters include the consideration of applications, the preparation of policy and the enforcement of licensing law.
- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Councillors and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.
- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining applications and making other decisions within the terms of reference of Licensing and

Appeals Committee. Although of particular relevance to members of the Committee it applies to all members of the Council who may become involved in licensing matters.

## **2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Licensing and Appeals Committee is to make licensing decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the relevant issues in the light of Council policies, Government advice and their own individual judgement.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers in their role of advising Councillors shall provide:
  - 2.6.1 Impartial and professional advice;
  - 2.6.2 Complete written reports covering all necessary information for a decision to be made
- 2.7 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.8 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

## **3. COUNCILLORS INTERESTS AND ALLEGATION OF BIAS**

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its merits, Councillors should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Licensing and Appeals Committee. Councillors who have such interests should consider whether it is

appropriate for them to participate in the licensing process (as opposed to the Committee), and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.

3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the licensing system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:-

3.4.1 from being closely aligned with ward campaigns or issues;

3.4.2 from membership of other Committees of the Council;

3.4.3 from membership of other public or community bodies;

3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);

3.4.5 from a connection with a particular policy initiative of the Council;

3.4.6 from membership of clubs, societies and groups; and

3.4.7 from hobbies and other leisure interests.

3.4.8 from political affiliations

Such interests may mean that a Councillor is involved with a licensing application before the matter comes before the Committee. Such involvement need not on its own debar a Councillor from participating in making the decision when the matter is considered by Licensing and Appeals Committee providing that the Councillor has not already decided how they will vote on the matter before the meeting. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

3.5 As a minimum, the integrity of the licensing system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

#### **4. APPLICATIONS BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

4.1 Licensing legislation allows the Council to submit and determine proposals for licences. Council owned companies also submit proposals that are decided by the Council.

4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

4.3 Members of the Licensing and Appeals Committee who sit on the board of a Council owned company which has submitted an application shall declare an interest and take no part in the discussion and determination of that proposal.

4.4 Officers who are involved in the preparation of licensing proposals shall not advise on, or take any part in the consideration of, applications in respect of such proposals.



## 5. **STATUTORY DUTIES**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the licensing function except when such matters are clearly immaterial because they are not capable of relating to the proposal under consideration. Examples of these duties include:

### 5.1 **Equality Act 2010**

Section 149 provides that:

- 5.1.1 A council must, in the exercise of its functions, have due regard to the need to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a protected characteristic and persons who do not share it.
- 5.1.2 The above powers relate to the following protected characteristics:-
- (a) Ages;
  - (b) Disability;
  - (c) Gender reassignment;
  - (d) Marriage and civil partnership;
  - (e) Pregnancy and maternity;
  - (f) Race (including colour, nationality and ethnic or national origins);
  - (g) Religion or belief;
  - (h) Sex; or
  - (i) Sexual orientation.

### 5.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

### 5.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

#### 5.4 **Crime and Disorder**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

### 6. **LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal may seek to influence the decision by an approach to their local Councillor or members of the Licensing and Appeals Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations. The views of consultees and the assessment of the case by the licensing officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the Licensing and Appeals Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Licensing and Appeals Committee member shall be free to listen to a point of view about a licensing proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
  - 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
  - 6.4.2 only give procedural advice;
  - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Licensing and Appeals Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors. Councillors shall not put improper pressure on officers for a particular recommendation.
- 6.6 If a member of the Licensing and Appeals Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare an interest and not vote or decide on the matter.

- 6.7 Councillors at a meeting of the Committee must be free to vote as they consider appropriate on licensing matters. A Councillor cannot be instructed how to exercise their vote on a licensing matter.
- 6.8 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

## **7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 7.1 Discussions between an applicant and the licensing authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the licensing process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3 Advice should be consistent and based upon relevant licensing policies and considerations.
- 7.4 A written note should be made of all potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Councillors need to preserve their role as impartial decision makers and members of Licensing and Appeals Committee should not take part in pre- or post- submission discussions and negotiations with applicants.
- 7.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for procedural or technical advice should refer the applicant to the relevant officer.

## **8. OFFICER REPORTS TO COMMITTEE**

- 8.1 A Senior Enforcement Officer will submit written reports to the Licensing and Appeals Committee or Sub-Committee on licensing applications to be determined by the Council. The reports will give the background to the application including any relevant licensing history of the site, a description of the proposals, and the relevant law and Council or Government policy considerations. The reports will include a summary of representations made about the application.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Senior Enforcement Officer will have available for inspection by Councillors the full application and representations from bodies consulted and members of the public.

## **9. RELEVANT CONSIDERATIONS**

9.1 Local opposition or support for a proposal is not in itself a ground for refusing or granting application, unless that opposition or support is founded upon valid licensing reasons which can be substantiated.

9.2 It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the relevant matters and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## **10. THE DECISION MAKING PROCESS**

10.1 The Licensing and Appeals Committee will give reasons for all decisions.

## **11. SITE VISITS BY THE COMMITTEE**

11.1 Site visits in licensing are rare but where they occur they should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.

## **12. PUBLIC SPEAKING AT LICENSING AND APPEALS COMMITTEE**

12.1 Wherever possible, objections or representations to licensing applications should be made in writing and must comply with any relevant regulations. Written representations received will be made available for public inspection and objections summarised and reported to the Licensing and Appeals Committee. Councillors have the opportunity to inspect all letters received before the decision on the application is made.

12.2 In relation to Licensing Act 2003 and Gambling Act 2005 applications those who may speak at a meeting are defined in regulations issued under the respective Acts.

12.3 In all other cases public speaking will be permitted where it is the interests of natural justice and a fair hearing to do so.

## **14. TRAINING**

14.1 Councillors should not participate in decision-making at meetings dealing with licensing matters if they have not attended training on an Introduction to Licensing Law and Practice.

14.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of licensing law, regulations, procedures, Codes of Practice and policies beyond the minimum referred to above and thus assist them in carrying out their role properly and effectively.



## APPENDIX 12



## **Protocol on Audio/Visual Recording and Photography at Meetings**

The Council is committed to being open and transparent in the way it conducts its decision making. The Council will facilitate recording at Council and committee and sub-committee meetings which are open to the public, subject to the recording being conducted under the direction of the Chairman of the meeting.

The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chairman of the meeting will facilitate this by ensuring that all parties are made aware that recording is or may take place and any request not to be recorded is communicated to those doing the recording.

The guidelines which the Council will apply are:-

1. Anyone wishing to record is encouraged to contact, prior to the start of the meeting, the Democratic Services Officer whose details are set out on the Agenda for advice and assistance.
2. The recording should take place from the public seating area and must be overt (ie clearly visible to anyone at the meeting) but non-disruptive.
3. All those visually recording a meeting are requested to focus only on recording councillors, officers and those members of the public speaking to the meeting who have not objected to being filmed.
4. Any member of the public has the right not to be recorded. Agendas for meetings will make it clear that recording can take place. If any member of the public speaking at the meeting does not wish to be recorded, they must let the Chairman of the meeting know at the start of the meeting.
5. Any children or young people under the age of 18 who are present at the meeting are not to be filmed unless their parents/guardians have given their written consent.
6. The Chairman of the meeting has absolute discretion to stop or suspend the meeting if, in his/her opinion, continuing to do so in public with recording taking place would prejudice proceedings at the meeting. The circumstances in which this might occur include:-
  - recording is disrupting the proceedings of the meeting;
  - there is public disturbance of the meeting;
  - the meeting has resolved to exclude the public for reasons which are set down in the Council's Constitution;
  - a member of the public participating in the meeting objects to being recorded and it is not possible to effectively conduct the business on the Agenda whilst respecting the objection.
7. The recording and reporting on meetings of the Council, its committees and sub-committees 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. The recording



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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. The Council will have no liability for material published by any other person unless it is itself undertaking the publication through its offices.

Please contact, in advance of the meeting, the Democratic Services Officer whose details are set out on the Agenda if the recording you wish to do involves equipment which is larger than a smart phone, tablet or compact camera or if you have special requirements eg to move around the room to record or film from different angles.

The use of lighting for filming/flash photography will usually be allowed if it is arranged via the Democratic Services Officer prior to the meeting.

The Council requests this contact in advance of the meeting so it can ensure the meeting will not be unduly disrupted and there is a safe environment to transact the business.