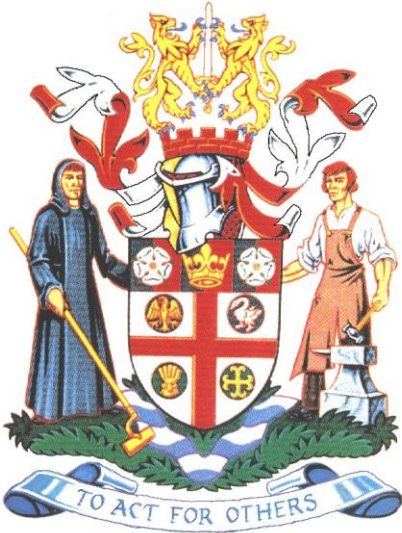




SELBY DISTRICT COUNCIL

CONSTITUTION

May 2011



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² A new Code of Conduct was adopted on 26 June 2012 for implementation on 1 July 2012

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Council Constitution

Selby District Council has agreed 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).
- ~~The Standards Committee (Article 9)~~³
- 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 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

³ Standards Committee was abolished by Council on 24 April 2012 to take effect on 30 June 2012

PART 1 – SUMMARY AND EXPLANATION

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.

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;
- 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.

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.

PART 2 – ARTICLES OF THE CONSTITUTION

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

Article 2 – Councillors

2.1 Composition and eligibility

- (a) **Composition.** The Council comprises 41 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,

PART 2 – ARTICLES OF THE CONSTITUTION

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.

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, 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 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.
- (o) Adopting the Council's Codes of Conduct.
- (p) 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.

PART 2 – ARTICLES OF THE CONSTITUTION

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

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 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.

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 committees⁴

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.

⁴ The Standards Committee was abolished by the Council on 24 April 2012 to take effect on 30 June 2012

Article 9 - The Standards Committee

9.1 Standards Committee

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 on 26 June 2012 to come into effect on 1 July 2012. A copy of the code of conduct is attached to this Constitution at Part 5

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)⁵ 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)⁶ 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)⁷ 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 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.

⁵ Inserted following the adoption of a set of formal arrangements by Council on 24 April 2012

⁶ Inserted following approval by the Council on 24 April 2012

⁷ Inserted following approval by the Council on 24 April 2012

- (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

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.

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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) All other decisions taken by the Council or on its behalf and not included in (a) or (b) 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 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.

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.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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 record, also referred to as a Scheme of Delegation, is set out below as Part 3 of the Constitution.

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 of the Council, Executive and committees

Section 13 of the Local Government Act 2000, and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 set out which functions:

- (a) are not to be the responsibility of the Executive (non-executive functions);
- (b) may (but need not) be the responsibility of the Executive (the local choice functions); and
- (c) which are to some extent the responsibility of the Executive (shared functions).

All other functions not so specified are the responsibility of the Executive.

3.1 Non-Executive functions (Reg. 2 and Schedule 1 of the Local Government Act 2000, and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000).

All non-Executive functions shall be the responsibility of the Council except where specific responsibility has been delegated to a committee, sub-committee or officer as set out in this part of the Constitution.

Function	Decision-Making Body	Membership	Delegations
Town and Country Planning, Development Control, Land and Highways	Planning Committee	12 councillors	See Planning Committee Delegations (pages 39/40) and Officer Delegations (pages 47-57)
Licensing, Registration and Appeals	Licensing and Appeals Committee	10 councillors	See Licensing and Appeals Committee Delegations (page

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			40/41) and Officer Delegations (pages 47-57)
Standards ⁸	Council	All Councillors	See Officer Delegations (pages 47-57)
Health and Safety at Work	Council	All councillors	See Officer Delegations (pages 47-57).
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)

3.2 Local choice functions (Reg. 3 and Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000)

Function	Decision-Making Body	Membership	Delegation of Functions
Appeals against decisions of the Authority	Appeals Sub-Committee of the Licensing and Appeals 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.

⁸ Standards Committee was abolished by Council on 24 April 2012 to take effect on 30 June 2012

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Function	Decision-Making Body	Membership	Delegation of Functions
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 Highway Works not otherwise delegated to officers.
Appointments (and revocations) 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.

3.3 Shared functions (Reg.4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000)

Function	Decision-Making Bodies	Delegation of Functions
Sustainable Community Strategy	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification
Community Safety Partnership Plan	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification
Local Development Framework	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification

PART 3 - RESPONSIBILITY FOR FUNCTIONS

4. Specific responsibilities for non-executive functions (including local choice functions delegated to non-executive bodies)

Committee	Membership	Functions
Planning Committee	12 councillors	All of the powers and duties of the Council arising from the Town and Country Planning legislation.
Detailed Delegations		
1) Power to determine applications for planning permission.	2) Power to determine applications to develop land without compliance with conditions previously attached.	
3) Power to grant planning permission for development already carried out.	4) Power to decline to determine applications for planning permission.	
5) Duties relating to the making of determinations of planning applications.	6) Power to determine an application for planning permission made by a local authority, alone or jointly with another person.	
7) Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	8) Power to enter into agreement regulating development or use of land.	
9) Power to issue a certificate of existing or proposed lawful use or development.	10) Power to serve a completion notice.	
11) Power to grant consent for the display of advertisements.	12) Power to authorise entry onto land.	
13) Power to require the discontinuance of a use of land.	14) Power to serve a planning contravention notice, breach of condition notice or stop notice.	
15) Power to issue an enforcement notice.	16) Power to apply for an injunction restraining a breach of planning control.	
17) Power to determine applications for hazardous substances consent, and related powers.	18) Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject to.	
19) Power to require proper maintenance of land.	20) Power to determine an application for listed building consent, and related powers.	
21) Power to determine applications for conservation area consent.	22) Duties relating to applications for listed building consent and conservation area consent.	
23) Power to serve a building preservation notice, and related powers.	24) Power to issue an enforcement notice in relation to demolition of an unlisted building in a conservation area.	

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25) Power to acquire a listed building in need of repair and to serve a repairs notice.	26) Power to apply for an injunction in relation to a listed building.
27) Power to execute urgent works.	

Committee	Membership	Functions
Licensing and Appeals Committee	10 councillors	The exercise of the regulatory and appeals responsibilities (other than development control) conferred from time to time by legislation on a district council.

Detailed Delegations

1) Power to issue licences authorising the use of land as a caravan site ("site licences")	2) Power to license the use of moveable dwellings and camping sites.
3) Power to license hackney carriages and private hire vehicles.	4) Power to license drivers of hackney carriages and private hire vehicles.
5) Power to license operators of hackney carriages and private hire vehicles.	6) Power to register pool promoters.
7) Power to grant track betting licences.	8) Power to license inter-track betting schemes.
9) Power to grant permits in respect of premises with amusement machines.	10) Power to register societies wishing to promote lotteries.
11) Power to grant permits in respect of premises where amusements with prizes are provided.	12) Power to issue cinema and cinema club licences.
13) Power to issue theatre licences.	14) Power to issue entertainments licences.
15) Power to license sex shops and sex cinemas.	16) Power to license performances of hypnotism.
17) Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	18) Power to license pleasure boats and pleasure vessels.
19) Power to register door staff.	20) Power to license market and street trading.
21) Power to license night cafes and take-away food shops.	22) Duty to keep list of persons entitled to sell non-medicinal poisons.
23) Power to license dealers in game and the killing and selling of game.	24) Power to register and license premises for the preparation of food.
25) Power to license scrap yards.	26) Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.
27) Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	28) Power to issue fire certificates.

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29) Power to license premises for the breeding of dogs.	30) Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
31) Power to register animal trainers and exhibitors.	32) Power to license zoos.
33) Power to license dangerous wild animals.	34) Power to license knackers' yards.
35) Power to license persons to collect for charitable and other causes.	36) Power to grant consent for the operation of a loudspeaker.
37) Power to grant a street works licence.	38) Power to issue licences for the movement of pigs.
39) Power to license the sale of pigs.	40) Power to license collecting centres for the movement of pigs.
41) Power to issue a licence to move cattle from a market.	42) Power to permit deposit of builder's skip on highways.
43) Power to license planting, retention and maintenance of trees etc. in part of the highway.	44) Power to authorise erection of stiles etc. on footpaths or bridleways.
45) Power to license works in relation to buildings etc. which obstruct the highway.	46) Power to consent to temporary deposits or excavations in streets.
47) Power to dispense with obligation to erect hoarding or fence.	48) Power to restrict the placing of rails, beams etc. over highways.
49) Power to consent to construction of cellars etc. under streets.	50) Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.
51) Power to sanction use of parts of buildings for storage of celluloid.	52) Power to approve meat product premises.
53) Power to approve premises for the production of minced meat or meat preparations.	54) Power to approve dairy establishments.
55) Power to approve egg product establishments.	56) Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
57) Power to approve fish products premises.	58) Power to approve dispatch or purification centres.
59) Power to register fishing vessels on board which shrimps or molluscs are cooked.	60) Power to approve factory vessels and fishery product establishments.
61) Power to register auction and wholesale markets.	62) Duty to keep register of food business premises.
63) Power to register food business premises.	

PART 3 - RESPONSIBILITY FOR FUNCTIONS

5. Specific responsibilities for Executive functions (including local choice functions delegated to the Executive)

Committee	Membership	Functions
Executive	Leader of the Council plus 2-9 Executive councillors	The Executive is responsible for the formulation of the Council's Budget and Policy Framework and the delivery of all of the Council's functions and services except where they are reserved as non-executive functions or as local choice functions which have not been delegated to the Executive.
Detailed Responsibilities		
1) Providing overall leadership and direction to the Council.	2) Leading the search for best value in all that the Council does.	
3) Formulating, monitoring and reviewing the budget and policy framework, following appropriate consultation, for adoption or approval by the Council.	4) 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.	
5) Determining all matters to do with the implementation of strategies, plans and policies which are not otherwise delegated to another part of the Council by law or under this Constitution.	6) Co-ordinating the policies and activities of the Council.	
7) Making appointments to outside bodies which exercise the equivalent of executive functions.	8) Ensuring effective performance of the Council in relation to its stated policies and objectives.	

Committee	Membership	Functions
Access Selby Board	<u>Non-Executive Directors</u> 3 councillors (voting members) 1 co-opted member (non voting) <u>Executive Directors</u> 2 officers (non voting)	To determine and review the strategic direction of the business within the budget and policy framework of Selby District Council.
Detailed Responsibilities		

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1) Determine, and monitor performance in achieving the business's key financial objectives.	2) Report and account for the activities of Access Selby to the Council, the public and other stakeholders.
3) Consider emerging issues which may be material to the business and affairs of Access Selby.	4) Develop proposals for joint ventures, strategic partnerships and alliances which are significant in terms of the business of Access Selby.
5) 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.	6) Consider and approve Access Selby's procedures for reviewing, monitoring and managing risk.
7) 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.	

The Access Selby Board will operate to deliver 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.

6. Specific responsibilities for Overview and Scrutiny

The Policy Review Committee, Scrutiny Committee and Audit Committee 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.

Committee	Membership	Functions
Policy Review Committee	9 councillors	To implement an annual work programme which contributes to the development of Council policy, reviews and makes recommendations regarding existing Council policy and considers and comments upon the implications on Selby District of the policies of partner organisations and other agencies delivering

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		public services in the District.
Committee	Membership	Functions
Scrutiny Committee	9 councillors	To implement an annual work programme which effectively scrutinises the decisions, actions and performance of the Council and those of its partner organisations and other agencies delivering services within the Selby District.

Detailed Delegations to both Policy Review and Scrutiny Committees

1) To prepare an annual report of the Committee's past work and an annual work programme of its future work for approval by the Council after consultation with the Executive, to ensure the efficient use of the Committee's time and the Council's resources and reduce the potential for duplicated effort.	2) To liaise effectively with the three Overview and Scrutiny Committee Chairs to ensure that matters which may fall within the remit of more than one committee are properly considered without duplication.
3) To ensure that the Council's obligations and powers in relation to Overview and Scrutiny are properly exercised.	4) to carry out the roles set out in Article 6 paragraph 6.2.

Committee	Membership	Functions
Audit Committee	9 councillors	To implement an annual work programme which effectively scrutinises and monitors the control systems, procedures and risk management systems operating at the Council.

Detailed Delegations

1) 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).	2) To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
3) To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.	4) To be satisfied that the Council's assurance statements, including the Annual Governance Statement, have been properly developed and considered by councillors.
5) To receive, but not direct, internal audit's strategy and plan and	6) To review summary internal audit reports and the main issues arising,

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monitor performance.	and seek assurance that action has been taken where necessary.
7) To receive the annual report of the internal audit service.	8) To consider the reports of external audit and inspection agencies.
9) 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.	10) 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.
11) 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.	

7. Specific responsibilities for Community Engagement Forums functions

Committee	Membership	Functions
Community Engagement Forums (CEFs)	<p>No less than 2 Forums</p> <p>All Selby District ward councillors for the Forum area.</p> <p>All North Yorkshire County councillors for the Forum area. Up to 4* representatives from town and parish councils in the Forum area and up to 4* co-opted members of the community. (* or another number agreed by the CEF Partnership Board.</p>	<p>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.</p> <p>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.</p> <p>To be responsible for the allocation of funds from the budget made available by the Council to each CEF.</p>

PART 3 - RESPONSIBILITY FOR FUNCTIONS

8. Specific responsibilities delegated to joint committees

Committee/Board	Membership	Functions
Building Control Partnership	2 Selby District councillors and 2 councillors each from Ryedale, Hambleton and Richmondshire District Councils and Scarborough Borough Council	To work in partnership with Ryedale, Hambleton and Richmondshire District Councils and Scarborough Borough Council for the delivery of a Building Control Service in accordance with the terms of the Partnership Agreement.
North Yorkshire Procurement Partnership	1 Selby District Councillor, 1 councillor each from Ryedale District and Scarborough Borough Councils	To work in partnership with Ryedale District and Scarborough Borough Councils for the delivery of a shared Procurement Service in accordance with the terms of the Partnership Agreement.

9. Scheme of Officer Delegation

9.1 General conditions applying to all delegated powers:

- (a) The Council has arranged for certain of its functions to be discharged by its 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/Council/ Non-Executive 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

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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 specified 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.
- (f) Notwithstanding the provisions of this Scheme, the specified 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 committee or which involves questions of policy not yet determined by the Council.
- (g) Any reference within this Scheme to 'Chair' shall be taken to apply to the Vice-Chair where contact with the Chair cannot be made.
- (h) 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.

9.2 General powers delegated to the Chief Officers and Directors:

- (a) 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.
- (b) 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 authorities to officers under statutory authorisation.
- (c) 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.
- (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 provide grants and other financial assistance.
- (g) 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.

10. 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 Council's Protocol, to decide 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.
- (i) To make administrative and consequential changes to the Constitution to reflect minor legislative changes, or changes to names, titles or designations but which do not alter the purpose or intent of this Constitution.
- (j) To discharge any Council function 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 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.

10.1 ⁹Functions delegated to the Deputy Chief Executive

⁹ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

- (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.

10.2 ¹⁰Functions 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

11. Functions delegated to 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
 - (v) Strategic Partnerships

11.1 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.

¹⁰ Amendment agreed at Council on 24 April 2012 for implementation on 1 July 2012

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- (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
 - (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) 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) ¹¹Where 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).

12. Functions delegated to the Directors of Access Selby

¹¹ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

12.1 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.

12.2 **Planning and Development Services**

(a) To undertake all of the Council's functions in connection with planning including: development control and management, listed building, conservation area and advertisement consents, certificate of lawfulness applications, planning enforcement and the preservation of trees and hedges.

(b) 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.
- (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 material planning representations are received from a consultee and where officers would otherwise determine the application contrary to these representations.
- (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:
 - (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

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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, 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

12.3 Housing and Property Services

(a) To have operational control of the Council's housing, property management and environmental health services and to act as an adviser on these matters to the Council, Executive and committees.

(b) To undertake all of the Council's functions in connection with:

- (i) Housing Management
- (ii) Tenant Relations
- (iii) Tenants' Right to Buy
- (iv) Supporting People initiatives
- (v) Homelessness
- (vi) Housing Revenue Account (HRA) property management, maintenance and repair
- (vii) Corporate property management, maintenance and repair
- (viii) Public Health
- (ix) Environmental Protection
- (x) Health and Safety at Work
- (xi) Food Sales, Safety and Standards
- (xii) Shops and Sunday Trading
- (xiii) Animals
- (xiv) Private Sector Housing Conditions, Improvement and Renovation
- (xv) Public Nuisance
- (xvi) Car Parks
- (xvii) Markets
- (xviii) Rivers, Watercourses and Land Drainage
- (xix) Cemeteries, Crematoria and Burials
- (xx) Emergency Planning and Civil Contingencies Act

(c) Limits, controls and conditions

- (i) After consultation with the local ward councillor(s):
 - to forward the observations of this Council to the Environment Agency in connection with the licensing of Disposal Sites;
 - to inform persons who may be entitled to Home Loss

Payments or Disturbance Allowance under the Land Compensation Act 1973 of their rights;

- to approve applications for undue hardship in respect of housing renovation grants.
- (ii) To approve housing renovation grants only where there is agreement between all interested parties or in the event of a failure to agree, after consultation with the Executive Director with s.151 responsibilities.

12.4. Business Services

- (a) To have operational control of the Council's Customers and Business Support functions and to act as an adviser on these matters to the Council, Executive and committees.
- (b) To undertake all of the Council's functions in connection with:
 - (i) HR Policy, Procedure and Codes of Practice
 - (ii) Workforce development
 - (iii) Training and development
 - (iv) Job evaluation
 - (v) Pay, benefits and conditions of service
 - (vi) Work placements, secondments and work experience
 - (vii) Meetings of the Council and its constituent bodies
 - (viii) Elections and Electoral Registration
 - (ix) Customer Services
 - (x) Media Relations
 - (xi) Information and communication technologies and services
 - (xii) Legal services
- (c) Limits, controls and conditions
 - (i) To vary the Council's Scheme for Relocation, but only where such variance will not exceed the maximum entitlement under the scheme.
 - (ii) To exercise delegated authority for elections and electoral registration only after consultation with the (Acting) Returning Officer/Electoral Registration Officer.

12.5 Contract and Procurement Services

- (a) To have operational control of the Council's Contract and Procurement functions and to act as an adviser on these matters to the Council, Executive and committees.
- (b) To undertake all of the Council's functions in connection with:
 - (i) Commercial Procurement
 - (ii) Public Conveniences

- (iii) Pest Control
- (iv) Equalities and Diversity
- (v) Contract Management
- (vi) Leisure
- (vii) Parks
- (xiii) Play
- (ix) Countryside Management and Nature Reserves
- (x) Waste and Recycling, inc Commercial Waste
- (xi) Street Cleansing
- (xii) Grounds Maintenance
- (xiii) Enforcement of environmental crime offences including fly-tipping, littering, abandoned vehicles
- (xiv) Safeguarding

(c) Limits, controls and conditions

to designate areas as litter control areas and issue street litter control notices under the Environment Protection Act 1990 or any subsequent legislation which may amend or replace these provisions.

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
- (iv) Licensing and Registration (except where delegated elsewhere under this Scheme)
- (v) Data Protection and Freedom of Information
- (vi) National Assistance Act 1948 and subsequent legislation
- (vii) Letting of land owned by the Council for the purpose of fun fairs, car boot sales and charity events

(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) Limits, controls and conditions

- (i) Licences and registrations may be issued, under delegated authority, but not refused.
- (ii) To dispose of land up to the value of £15,000 but only after consultation with the local ward councillors and appropriate Directors.

- (iii) To settle legal disputes after consultation with the appropriate Director up to a value of £5,000.

JOINT ARRANGEMENTS

14. Arrangements to promote well-being

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 will be found in the Council's Scheme of Delegation in this Section.

15. Access to Information

- (a) The Access to Information Procedure Rules in Section 4 of this Constitution apply.
- (b) The provisions of Part VA of the Local Government Act 1972 shall apply to any joint committee.

16. 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.

17. 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.

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 councillors
- Licensing and Appeals Committee -10 councillors
- Policy Review Committee - 9 councillors
- Scrutiny Committee - 9 councillors
- Audit Committee – 9 councillors

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 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 two 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 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 ²⁷Policy Review Committee 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 ²⁸Policy 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

²⁷ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

²⁸ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

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 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 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 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.

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 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, 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.

- (i)
- (ii)
- (iii)
- (iv)
- (v)

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) to take the place of the ordinary councillor for whom they are the substitute;

- (ii) 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.
- (c) Substitution at Overview and Scrutiny Committees²⁹

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. 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. (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 Interest³⁰

Where a Councillor (or co-opted member) has a disclosable pecuniary 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,

²⁹ Amendment approved by Council on 11 September 2012

³⁰ Amendment approved by Council on 24 April 2012 for implementation on 1 July 2012

except where s/he is permitted to remain as a result of the grant of a dispensation.

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Community Engagement Forums, the Standards Committee, regulatory committees and public meetings of the Executive (together called meetings).

2. Additional rights to information

These rules do not affect rights to information contained elsewhere in this Constitution or provided by statute or at common law.

3. Rights to attend meetings

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

4. Notice of meeting

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

5. Access to agenda and reports before the meeting

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.

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Moreover, that item will only be considered at the meeting if the Chairman agrees that it is urgent. Where reports are prepared after the agenda has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

6. Supply of copies³¹

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

³¹ Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- (c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item.

Copies of documents supplied to members of the public, where the council is the copyright holder, may be reproduced in any publically available medium.

7. Access to minutes etc after the meeting

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.

8. Background papers

8.1 List of background papers³²

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).

8.2 Public inspection of background papers

The Council will make available for public inspection for 4 years after the date of the meeting one copy of each of the documents on the list of background papers.

Copies of any unpublished background papers for meetings of the Executive will be made available for inspection at the Council offices and published on the Council's website.

³² Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

9. 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.

10. Exclusion of access by the public to meetings

10.1 Confidential information – requirement to exclude public

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

10.2 Meaning of confidential information

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

10.3 Exempt information – discretion to exclude public³³

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. For meetings of the Executive, at least 28 clear days’ notice will be given of the intention to exclude the public from the part of the meeting where exempt information may be disclosed.

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

10.4 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).

³³ Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Part 4 – Rules of Procedure

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

The following additional categories of exempt information apply in relation to the operation of the Standards Committee (or any Sub-Committee of it) only.

Category	
8.	Information which is subject to any obligation of confidentiality.
9.	Information which relates in any way to matters concerning national security.
10.	The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Part 4 – Rules of Procedure

The following qualifications to exempt information apply.

Qualifications	
1.	Information falling within category 3 above is not exempt information if it is required to be registered under- (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.
2.	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
3.	Information which: (a) falls within any of categories 1 to 7 above; and (b) is not prevented from being exempt by virtue of qualifications 1 or 2 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

For interpretation see Part 3 of Schedule 12A of the Local Government Act 1972 (as amended).

11. Exclusion of access by the public to reports

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

12. Application of Rules to the Executive

Rules 13 – 20 apply to the Executive (and its sub-committees – if any). If the Executive meets to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special

urgency) apply. A key decision is as defined in Article 13.3 of this Constitution.

This requirement does not include meetings, whose sole purpose is for officers to brief councillors.

13. Procedure before taking key decisions³⁴

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

- (a) a notice (called here a 'Forward Plan') has been published in connection with the matter in question;
- (b) at least 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 4 (Notice of Meeting).

14. The Forward Plan

14.1 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.

14.2 Content of Forward Plan³⁵

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

^{34, 35} Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- (e) a list of the documents (which are available to the public) submitted to the decision-taker for consideration in relation to the matter.

14.3 Publication of Forward Plan³⁶

The Forward Plan must be published at least 28 clear days before the start of the period covered.

15. General exception³⁷

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

- (a) the decision must be taken by such a date that it is impracticable to defer the decision 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.

16. Special urgency³⁸

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the 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

36-38 ,Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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.

17. Report To Council

17.1 When the Scrutiny Committee can require a report to Council

If the Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chair of the Scrutiny Committee, or the Chairman/Vice Chairman of the Council under Rule 16 (special urgency),

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, and the communication of that request rests with the Chief Executive, who shall require such a report on behalf of the committee when so requested by the Chair or any 5 councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

17.2 The Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 14 clear working days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision and the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

17.3 Reports on special urgency decisions³⁹

In any event, the Leader will submit at least annually a report to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (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.

39-40 Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

18. Record of decisions⁴⁰

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.

18.1 Records of decisions at Executive meetings⁴¹

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;

19. Notice of Private Executive Meetings⁴²

19.1 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.

19.2 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 by 10.1 above, the public must be excluded.

19.3 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

41-42 Amended by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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.

20. Overview and Scrutiny Committees' access to documents

20.1 Rights to copies

Subject to Rule 20.2 (Material relating to key decisions), any Overview and Scrutiny Committee (including Sub-Committees) 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.

20.2 Limit on rights

Overview and Scrutiny Committees 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.

Where the Executive 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.

21. Additional rights of access for councillors

21.1 Material relating to previous business

All councillors will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a meeting unless it appears to the Chief Executive that it contains exempt information.

21.2 Material relating to key decisions

All councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any key decision unless Rule 20.1 applies.

21.3 Nature of rights

These rights of a councillor are additional to any other right he/she may

have.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for executive decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

2. Process for developing the Framework

The process by which the budget and policy framework shall be developed is as set out below:

- (a) The Executive will publicise (by including in the Forward Plan) a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The Chair of the Policy Review Committee will be notified, in writing, of the timetable and the Executive will allow 6 weeks for the Policy Review Committee, and any other consultees indicated by the Executive in its timetabling proposals, to consider the Executive's draft policy proposals.
- (b) At the end of that period, the Executive will draw up firm proposals having regard to the responses to that consultation. The Executive will take any responses into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect all comments made and the Executive's response. If the consultees seek no changes to the Executive's proposals the proposals may be submitted directly to Council.
- (c) Once the Executive has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
- (d) The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration or substitute its own proposals in their place.
- (e) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive but in accordance with the Financial Procedure Rules. Any other changes to the budget and policy framework are reserved to the Council.

3. Decisions outside the Budget and Policy Framework

- (a) Subject to the provisions of the Financial Procedure Rules the Executive and any officer, (or any joint arrangements) discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes

to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to paragraph 4 (urgent decisions outside the budget and policy framework).

- (b) If the Executive and any officer, (or any joint arrangements) discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the Budget and Policy Framework

- (a) The Executive or officers discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by the Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the Council; and
 - (ii) if the Chair of the Policy Review Committee agrees that the decision is a matter of urgency.

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

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

5. Call-in of decisions outside the Budget and Policy Framework

- (a) Where the Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget or is not otherwise authorised by the terms of this Constitution, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

- (b) In respect of decisions which are Executive decisions, the Monitoring Officer's report and/or the Chief Finance Officer's report shall be to the Executive and the Scrutiny Committee with a copy to every councillor. In the event that the Monitoring Officer and/or the Chief Finance Officer conclude that the decision is or would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to the Council. In such cases, if the decision has yet to be made or has been made but not yet implemented, no further action shall be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 clear working days of the request of the Scrutiny Committee. At this meeting it will receive a report of the decision or proposals from the Executive and the Scrutiny Committee, and the advice of the Monitoring Officer and/or the Chief Finance Officer. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take and prepare its report to the Council.

The Council may:

- (i) endorse a decision or proposal of the Executive as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the Executive and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.

EXECUTIVE PROCEDURE RULES

1. Role and Composition

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.

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.

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. The Chief Executive will present a report to the next Ordinary meeting of the Council setting out the changes made by the Leader.

Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its Chair.

2. Appointments

2.1 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.

2.2 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.

2.3 Key Tasks

- (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.

2.4 Appointment of Executive Members

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.

2.5 Role of Executive Members

- (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.

2.6 Key Tasks

- (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.

2.7 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.

2.8 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. 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.

4. 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.

4.a Withdrawal from the meeting due to a Disclosable Pecuniary Interest⁴³

Where a Councillor (or co-opted member) has a disclosable pecuniary 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.

Where an Executive Member has a Disclosable Pecuniary Interest in a matter in which s/he has individual delegated responsibility s/he must make arrangements for the decision on that matter to be made by another appropriate Executive Councillor or by the Executive as a whole except where s/he is permitted to take the decision as a result of the grant of a dispensation.

5. Meetings of the Executive

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.

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. This should not preclude meetings which involve private, informal, discussion between Executive Members and others.

The quorum for a meeting of the Executive or a committee of the Executive shall be 3.

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.

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. Conduct of meetings

At each meeting of the Executive, the following business will be conducted:

⁴³ Amendment approved by Council on 24 April 2012 for implementation on 1 July 2012

- (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.

6.1 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.

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.
- (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.

- (d)⁴⁴ 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”
- (f) 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.
- (f) 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 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.
- (g) 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

⁴⁴ Amendment approved by Council on 11 September 2012

decision or not before implementing it.

- (h) If the Council does not refer the decision back to the Executive, the decision will become effective on the date of the Council meeting.
- (i) 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) any response from the Executive to a previously-forwarded 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 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.

COMMUNITY ENGAGEMENT FORUM PROCEDURE RULES

1. Community Engagement Forums (CEFs)

1.1 Purpose

To provide an opportunity to raise, discuss and consider matters related to the well-being of the CEF'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.

To contribute to the achievement of the aims and objectives of the Selby and District Local Strategic Partnership and the development and delivery of the Sustainable Community Strategy.

1.2 Terms of Reference

⁴⁵The CEF meetings will be structured in accordance with the wishes of the CEF Partnership Board but the agreed arrangements shall provide for:

(a) Community Sessions – the Forum will provide:

- The opportunity for residents of the CEF area to raise concerns about public services provided by any public body having an influence on the quality of life of those living and working in the area.
- A means of holding to account those who provide services in the name of the community.
- A means of influencing the future shape of service delivery.
- An opportunity for direct involvement in the provision of services and facilities for the benefit of the area.
- A means of determining the use of and monitoring of the Community Fund.
- A means of sharing information and gathering the views of the community.

(b) Business Sessions – the Partnership Board

The Partnership Board will be accountable to the community within the CEF area and will conduct its business in public (except where the Access to Information Procedure Rules preclude it from doing so).

It will be responsible for:

- Making recommendations arising from issues at CEF meetings.
- Developing, monitoring and maintaining the Community Development Plan identifying and mitigating any risks.
- Determining how the CEF Community Fund will be allocated and spent.
- Reporting annually to the CEF on progress and future plans.

⁴⁵ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

1.3 The Statutory Partners

The following statutory bodies have agreed to support CEFs in delivering a partnership response to community concerns:

- Selby District Council
- North Yorkshire County Council
- North Yorkshire Police
- North Yorkshire Fire and Rescue

1.4 Admitted Partners

In addition to the statutory partners listed in paragraph 1.3 there will be up to 8 admitted partners with voting rights on the Partnership Board. Normally the 8 would comprise up to 4 town or parish council representatives and up to 4 other community representatives co-opted by the Partnership Board, but the Partnership Board shall be free to determine a different number if it sees fit.

1.5 Number and coverage of CEFs

There shall be as many CEFs as the Council will, from time to time, determine provided that every community in Selby District is included within a CEF area.

1.6 Appointment of Chair and Vice-Chair

The Council will appoint a Chair for each CEF who will hold office for the municipal year.

Each CEF Partnership Board will appoint a Chair and Vice-Chair who will hold office for the municipal year.

If a Chair ceases to hold office, the Council shall appoint a new Chair at its next meeting.

If a CEF Partnership Board Chair or Vice-Chair ceases to hold office, the CEF Partnership Board shall appoint a new Vice-Chair at its next meeting.

The Chairman of the Council shall not be appointed Chair or Vice-Chair of any CEF/Partnership Board during his/her period of office.

In the absence of the Chair the Vice-Chair will preside. In the event of the Chair and Vice-Chair not being present, members of the Partnership Board who are present at the meeting will elect a Chair for the meeting.

The Chair of a CEF will be responsible for taking appropriate actions to ensure that decisions taken at a CEF meeting are recorded and that any follow up action is allocated and progress is monitored and reported back on.

1.7 Meetings of Community Engagement Forums

(a) Frequency

⁴⁶Each CEF will draw up a schedule of meetings for the year ahead for approval by the Council and incorporation into the Schedule of Meetings for the start of each municipal year.

(b) Venue

The Council will make available premises for each CEF meeting and will take all reasonable steps to make sure that the venue is as accessible as possible for everyone who wishes to attend the meeting. Wherever practicable, meetings will take place at venues within the CEF area.

(c) Agenda

⁴⁷Notice will be given of the time and place of any meeting in accordance with the Access to Information Procedure Rules.

1.8 Attendance of non-members of CEFs

All councillors shall be entitled to attend the proceedings of any CEF and Partnership Board.

Councillors who do not represent an area within the CEF shall not vote and may only speak with the consent of the Chair.

1.9 Confidentiality

Reports to the Partnership Board which are not for publication on the grounds they contain confidential or exempt information shall be treated as confidential and shall not be disclosed by a Partnership Board member or officer unless the Partnership Board so decides.

After the meeting of the Partnership Board, the information shall continue to be treated as confidential except insofar as it ceases to be confidential by virtue of the statutory provisions or its inclusion in the notes of the meeting which are made available for public inspection.

1.10 Notes of Community Engagement Forum and Partnership Board meetings

(a) Approval

Notes of all CEF and Partnership Board meetings will be approved by the Partnership Board and signed as a correct record.

⁴⁶ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

⁴⁷ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

(b) **Accuracy**

Only the accuracy of the notes may be questioned and an amendment put forward to propose a change of wording.

1.11 Councillors' Conduct

Councillors must conduct themselves at CEF and Partnership Board meetings in accordance with the Code of Conduct for Councillors and the Code of Conduct for Members of the Partnership Board attached at page 232 to the Constitution.

1.12 Quorum

Meetings of the Partnership Board will be quorate if there is not less than one third of voting members present.

1.13 Method of Voting

Each voting member of the Partnership Board will have an equal vote. Voting shall be by a show of hands and matters will be decided by a majority decision of those present and voting in the room.

All voting procedures shall be in accordance with Rule 19 of the Council Procedure Rules.

FINANCIAL PROCEDURE RULES

Introduction

The purpose of these Rules is to provide a sound and published framework of financial control within which the whole Council must operate. They link in with other rules and procedures forming part of this Constitution, for example the Budget and Policy Framework Procedure Rules at Part 4, the Responsibility for Functions at Part 3, the Employees' Code of Conduct at Part 5 and the Contract Procedure Rules at Part 4.

These Rules are approved by the Council and apply to every councillor and officer of the authority and anyone acting on its behalf and all councillors, Chief Officers, Directors and the Council's Auditors will be issued with a copy of these Rules.

Section 151 of the Local Government Act 1972 requires that:

'Every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.

The Council's Executive Director with s.151 responsibilities is appointed for the purposes of Section 151. He/she shall also be responsible for maintaining a continuous review of these Rules and submitting any recommendations for additions or changes necessary to the Executive for approval. He/she shall also be responsible for reporting, where appropriate, breaches of the Rules to the Council and/or Executive.'

These Rules may be varied or revoked only by resolution of the Council including the financial levels set out herein which may be varied following a report from the Chief Executive.

All reports to the Council, committees, and the Executive must contain a financial appraisal setting out the full financial implications arising from the proposal contained in the report. The financial appraisal (or its absence from a report or reports) must be agreed with the Executive Director with s.151 responsibilities

Each Director is individually responsible for the proper financial management of the resources allocated to his/her service area through the budget-making process and for the identification of income arising from activities within his/her operational area. This includes the control of staff and the security, custody and management of assets including plant, equipment, buildings, materials, cash and stores relating to his/her service area. Each Director shall ensure that staff comply with the requirements contained in these Rules.

Assistance to ensure compliance with these Rules can be obtained from the

Part 4 – Rules of Procedure

Financial Services Unit.

These Rules aim to achieve financial propriety rather than to act as a barrier to action.

The Executive Director with s.151 responsibilities may delegate in writing certain of his/her responsibilities within these Rules to his/her staff but must retain overall responsibility as the Section 151 officer.

1. Revenue Expenditure

- (a) Every Director shall, in conjunction with the Executive Director with s.151 responsibilities, prepare estimates of their income and expenditure for the following 3 financial years. These estimates shall be in a form and in accordance with deadlines approved by the Executive Director with s.151 responsibilities and shall be prepared in accordance with the Council's Financial Strategy.
- (b) The Executive Director with s.151 responsibilities shall submit the estimates and an annual estimates report to the Executive who shall consider the estimates, and, following consultation with the relevant Overview and Scrutiny Committee(s), shall submit such estimates to the Council recommending any amendments they deem necessary and the Council Tax to be fixed for the ensuing year in accordance with the Budget and Policy Framework Rules at Part 4 of this Constitution.
- (c) Chief Officers or Directors may authorise routine revenue expenditure in implementation of the Council's policy provided due provision has been made in annual estimates or it is within approved virement limits. Diversions expressly provided within estimates as contingencies may be authorised by the Executive Director with s.151 responsibilities, subject to any limitation made by the Council.
- (d) The Executive Director with s.151 responsibilities shall provide the Chief Officers and each Director with periodic statements of income and expenditure in accordance with an agreed timetable under each head of approved estimate. It is the responsibility of each Chief Officer and Director to monitor and regulate those items of income, expenditure commitments and orders under his/her control.
- (e) Any proposal to incur revenue expenditure or to reduce revenue income which is not included in the approved estimates and which cannot be funded by virement within the estimates shall be submitted to the Council with a report subject to the urgency provisions in Rule 4 of the Budget and Policy Framework Rules at Part 4 of this Constitution.
- (f) Virement within estimates shall be subject to the Executive Director with s.151 responsibilities approved virement procedures at Rule 4 of these Financial Procedure Rules.
- (g) The funding proposals on use of balances and level of Council Tax will be considered by the Executive and recommended to the Council. The annual Council Tax will be set by the Council.
- (h) Proposals for the carry forward of underspends shall be considered by the Executive and recommended to the Council.

2. Capital Expenditure

- (a) The Executive shall, during each financial year and after consultation with the relevant Overview and Scrutiny Committee(s), approve a capital expenditure programme for the next following and subsequent 2 financial years. Such programmes shall be in a form and in accordance with deadlines approved by the Executive Director with s.151 responsibilities and in accordance with the Council's Financial Strategy. Such programmes shall be prepared by the respective Director, in conjunction with the Executive Director with s.151 responsibilities for submission to the Executive and then Council for approval.
- (b) Before embarking on any scheme included in the approved capital expenditure programme, the appropriate officer shall submit details to the Executive and shall incorporate a statement prepared in conjunction with the Executive Director with s.151 responsibilities, showing estimated costs and probable initial and ultimate revenue charge as well as the proposed method of financing.
- (c) If, during the course of the financial year, the need for a capital scheme is identified by the Executive, the scheme must be submitted to the Council with a recommendation that it be added to the capital expenditure programme in accordance with the Budget and Policy Framework Procedure Rules.
- (d) If, during the progress of a scheme, it becomes apparent that the estimates originally submitted are likely to be exceeded by £20,000 or more, the relevant Director shall report the facts immediately to the Executive.
- (e) The final certificate of completion of any contract shall not be issued until the appropriate officer, private architect, engineer or consultant has produced to the Executive Director with s.151 responsibilities a detailed statement of account and all relevant documents as required.
- (f) The Executive Director with s.151 responsibilities shall to the extent he/she considers necessary examine final accounts for contracts and he/she shall be entitled to make all such enquiries and receive such information and explanations as he/she may reasonably require in order to satisfy himself/herself as to the accuracy of the accounts.
- (g) The final cost of any scheme, when ascertained, shall be reported to the Executive or appropriate Executive Member and the Council by the Chief Officers or Director concerned and the Executive Director with s.151 responsibilities.

3. Monitoring and control of revenue and capital expenditure

Quarterly exception reports covering both revenue and capital expenditure and income shall be submitted to the Executive in a form approved by the

Executive Director with s.151 responsibilities.

4. Virement

- (a) Virement is a transfer of budget provision within or between budget headings and is an important mechanism in managing budget efficiently within cash limits.
- (b) Virements within approved service revenue expenditure budgets may be agreed by the Executive Director with s.151 responsibilities subject to the limits set out below.
- (c) The approval of the Executive shall be required where the virement is outside the limits set out below, is contrary to the Budget and Policy Framework Procedure Rules, or where the Executive Director with s.151 responsibilities so requires.
- (d) Virement does not create additional recurring overall budget provision.
- (e) Virements are limited to £20,000 both from and to an individual budget in any one financial year.
- (f) Virement is not allowed between the General Fund and Housing Revenue Account nor is it permitted between capital and revenue.
- (g) Virement is not allowed from the following budgets:
 - i) Insurances
 - ii) NNDR
 - iii) capital financing costs
 - iv) internal recharges
 - v) income
- (h) Virement is not allowed from carry-forward budgets.

5. Asset Register

- (a) An Asset Register is maintained by the Executive Director with s.151 responsibilities for the management of the Council's fixed asset accounting. A desktop review of the register is carried out annually and a full review is carried out every 5 years by an independent valuer.
- (b) An asset for inclusion in the Register is defined as a fixed asset, as being over a value of £10,000 and a life and use of over one year.
- (c) Assets are adjusted, where appropriate, for depreciation and where repairs and maintenance expenditure materially adds to the life of the asset.
- (d) It is the responsibility of Chief Officers and Directors to immediately notify any amendments, deletions or additions to the Executive Director with s.151 responsibilities – and provide any information or

evidence required. This is also required for insurance purposes.

6. Land Transactions

(a) Application

- (i) This procedure rule applies where there is a land transaction.
- (ii) 'Land transaction' means the acquisition or disposal of, or other dealing with land whether or not buildings, plant and equipment, fixtures and fittings, or other assets are included in that transaction.
- (iii) 'Major disposal' means a land transaction which consists of either a disposal of the freehold where the consideration exceeds £50,000, or the grant of lease where the rent exceeds £20,000 per annum or where the premium exceeds £50,000.
- (iv) 'Best Consideration' is a principle established by s.123 of the Local Government Act 1972 but has since been extended to allow authorities to dispose of land at less than 'best consideration' subject to it being for certain specific uses, e.g. economic and social well-being. A discount of up to £2 million could be given if necessary.

(b) Approval of major disposals

- (i) The principal terms and method of each major disposal must be approved by the Executive. When determining such matters the relevant Director, in conjunction with the Executive Director with s.151 responsibilities and the Solicitor to the Council shall prepare a report for the Executive which shall:
 - Specify the land to be disposed of.
 - Confirm whether that land has been declared surplus to the Council's requirements.
 - Advise upon the proposed method of disposal, and provide the reasons for selecting that method.
 - In matters where the Council must achieve best consideration, confirm that the proposed method of disposal which has been selected is most likely to achieve this.
 - In matters where it is proposed that the disposal should be for less than best consideration, give reasons for and against seeking best consideration and following consultation with the Solicitor to the Council, specify the relevant legal powers of the Council to accept less than best consideration.
- (ii) In major disposals where the approved method of disposal is the inviting of formal tenders or informal offers, the disposal must be advertised in at least one local, national, international or specialist newspaper or publication, as determined by the

Solicitor to the Council.

- (c) Dealing with formal tenders and offers
 - (i) Tenders and offers shall be opened at one time by an officer nominated by the appropriate Director, and the names of tenderers/offerors, and the amounts of tenders/offers shall be recorded in a register kept by the Solicitor to the Council. Persons present at the opening of tenders/offers shall record their presence by signing the register against the specified details. Tenders/offers must be opened by the nominated officer and witnessed by a Chief Officer or Director or his/her nominated representative. Alterations/errors in tenders/offers and later or otherwise invalid tenders/offers shall be dealt with in consultation with the Solicitor to the Council.
 - (ii) Where there are alterations/errors, or where a tender or offer is received late, or is otherwise invalid, and the relevant Director, in consultation with the Solicitor to the Council, is minded to recommend acceptance, the Director should record the reasons for doing so. All tenderers/offerors should be given the opportunity to resubmit their tenders/offers within a given timescale wherever, in the opinion of the relevant Director, it is possible that other tenderers/offerors will otherwise be prejudiced.
- (d) Disposals by auction
 - (i) In disposals where the approved method of disposal is by auction, at least 3 auctioneers approved by the relevant Director must be invited to provide a written quotation as to commission and associated disposal costs and the quote offering best value must be selected by the Director. This provision may be waived by agreement of a Chief Officer in the case of specialist items.
 - (ii) A 'reserve price' must be set by the relevant Director in consultation with the Executive Director with s.151 responsibilities (and will be based on an independent valuation). The reserve price must be disclosed only to the auctioneer and the Council's Legal Officer attending the auction.
- (e) Approval of land transactions other than major disposals
 - (i) The principal terms of land transactions other than major disposals (except where the method of disposal is by way of auction) must be approved by the Executive. When determining such matters, the Executive shall consider the proposals in an agreed format confirming either that the consideration agreed represents best consideration, or following consultation with the Solicitor to the Council specifying the relevant legal powers of the Council to accept less than best

consideration.

- (ii) Except that when the value of the land is less than £15,000 disposal be delegated to the relevant Director in consultation with the Executive Director with s.151 responsibilities and Solicitor to the Council.

(f) Formalities

- (i) All contracts and other documentation entered into pursuant to all land transactions shall be in writing, and shall be signed or sealed as appropriate.

7. Disposals of Capital Assets

- (a) Any proposal to lease or to dispose of land, buildings, restrictive covenants or other permanent assets shall be the subject of a report to the Executive prepared by the appropriate officer in conjunction with the Executive Director with s.151 responsibilities, showing estimated proceeds and their application.

(b) Any disposal other than:

- (i) leases not exceeding 7 years; or
- (ii) sales not exceeding £15,000

(which are within the agreed budget) shall be subject to a report to the Executive.

(c) Any disposal of:

- (i) leases at a rack rent exceeding 40 years; or
- (ii) sales exceeding £50,000

shall be subject to a recommendation to the Executive.

8. Inventories

- (a) Each Director shall prepare and keep up-to-date an inventory, wherein shall be recorded an adequate description of moveable plant and machinery, transport, furniture, fittings and equipment, office machinery and similar property belonging to the Council and under his/her control. The form in which the inventories shall be kept and the extent to which property shall be recorded is to be determined by the appropriate Director with the concurrence of the Executive Director with s.151 responsibilities.

- (b) Each Director shall be responsible for maintaining an annual check of all items of the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.

- (c) The Council's property shall be marked as property of the Council and shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Director concerned.
- (d) The Executive Director with s.151 responsibilities or his/her representative may at all reasonable times have access to all such property of the Council and may make such checks and tests as he/she deems reasonable.
- (e) Responsibility for the inventory of all computer hardware and software shall lie with the Executive Director with s.151 responsibilities.
- (f) Inventories shall be reviewed from time to time by Directors in consultation with the Executive Director with s.151 responsibilities for the consideration of arrangements for custody and adequate insurance cover.

9. Borrowing

- (a) The Executive Director with s.151 responsibilities' operation of the Council's borrowing shall be subject to compliance with the CIPFA Code of Practice on Treasury Management, the Council's Treasury Management Policy Statement and Strategy and the Prudential Code for Capital Investment in Local Authorities.

10. Insurances

- (a) The Executive Director with s.151 responsibilities shall effect all insurance cover and negotiate all claims in consultation with other Directors where necessary.
- (b) Directors shall give prompt notification to the Executive Director with s.151 responsibilities of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.
- (c) Directors shall forthwith notify the Executive Director with s.151 responsibilities in writing of any loss, liability or damage or any event likely to lead to a claim and inform the Police if necessary.
- (d) All appropriate employees and volunteers of the Council shall be included in a suitable fidelity guarantee insurance.
- (e) The Executive Director with s.151 responsibilities shall annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Directors as appropriate.
- (f) Directors shall consult the Executive Director with s.151 responsibilities concerning the terms of any indemnity which the

Council is requested to give.

- (g) Directors shall notify the Executive Director with s.151 responsibilities in advance of the acquisition of assets or at the onset of new risks which are likely to require insurance cover, together with an estimate of the cost of the required insurance cover, in order that cover can be arranged once delivery occurs or the risk materialises.
- (h) The Executive Director with s.151 responsibilities shall in matters of urgency undertake to arrange immediate insurance cover where in his/her opinion this is deemed necessary to cover the risks.

11. Banking Arrangements

- (a) All bank accounts shall be in the name of Selby District Council and no bank account shall be opened without the authority of the Executive Director with s.151 responsibilities. The Executive Director with s.151 responsibilities shall be authorised, on behalf of the Council, to agree an overdraft facility with the Council's bankers as may from time to time be necessary.
- (b) Supplies of cheques shall be ordered only on the authority of the Executive Director with s.151 responsibilities who shall make safe and efficient arrangements for the control, custody and issuing of cheques. He/she shall also make appropriate arrangements for the safe transit and transmission of cash and cheques. Main account cheques shall bear the facsimile signature of the Executive Director with s.151 responsibilities or such other officer as the Council may determine. Cheques over £20,000 to have 2 authorised signatures with at least one being a first signatory.
- (c) The computer printed name of the Executive Director with s.151 responsibilities may be used for crossed cheques up to £20,000 and for open cheques up to £200.
- (d) All advance accounts shall be approved by the Executive Director with s.151 responsibilities and be kept on an imprest basis.

12. Imprest/Petty Cash Accounts

- (a) Payments made from an imprest account shall be limited to minor items of expenditure and to such other items as the Executive Director with s.151 responsibilities may approve and shall be supported by a receipted voucher as required. No income received on behalf of the Council may be paid into an imprest account but must be banked direct into the Council's bank account, or via the Council's cashiers' facility.
- (b) It is a requirement that a certificate be produced by the responsible officer verifying the amount of 'float' held at the end of each financial year and provided to the Executive Director with s.151 responsibilities.

13. Treasury Management

- (a) This Council has adopted CIPFA's Treasury Management Code of Practice 2009 and will adopt any amendments/additions to that Code.
- (b) A Treasury Management Policy Statement shall be adopted by the Council and thereafter its implementation and monitoring shall be delegated to the Executive Director with s.151 responsibilities.
- (c)
 - (i) All money in the hands of the Council shall be under the control of the Executive Director with s.151 responsibilities – the officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the Code as the Chief Finance Officer.
 - (ii) The Executive Director with s.151 responsibilities shall report to the Executive not less than twice in each financial year on the activities of the treasury management operation and on the exercise of delegated treasury management powers. One such report shall comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
- (d) At or before the start of the financial year the Executive Director with s.151 responsibilities shall report to the Executive on the strategy for treasury management it is proposed to adopt for the coming financial year.
- (e) All Executive decisions on borrowing, investment or financing shall be delegated to the Executive Director with s.151 responsibilities who shall be required to act in accordance with CIPFA's Treasury Management Code of Practice 2009.

14. Accounts and Audit

- (a) The accounts of the Council shall be kept by the Executive Director with s.151 responsibilities and all systems of accounting throughout service areas shall be as agreed with him/her. All accounting procedures adopted shall reflect local government-recommended professional practices and be in accordance with legal requirements. The Executive Director with s.151 responsibilities shall from time to time make such recommendations to the Council regarding the accounting systems and financial operations as he/she may deem necessary.
- (b) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them. Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

- (c) A continuous internal audit, under the independent direction and control of the Executive Director with s.151 responsibilities, shall provide an appraisal and review of the internal control system as a service to all levels of management and the Council as a whole. It will objectively examine, evaluate and report upon the adequacy of internal controls as a contribution towards the proper and efficient use of resources and to minimise the risk of irregularity occurring.

The Corporate Management Team has the responsibility to establish internal control to:

- (i) ensure adherence to policies and directives in order to achieve the Council's objectives;
 - (ii) safeguard its assets;
 - (iii) secure the relevance, reliability and integrity of data and information, so ensuring as far as possible the completeness and accuracy of records;
 - (iv) ensure compliance with statutory requirements.
- (d) The Executive Director with s.151 responsibilities or his/her authorised representative shall have authority to:
- (i) enter at all reasonable times any Council premises or land;
 - (ii) have access to all records, documents and correspondence relating to any financial transactions of the Council, including those held by contractors;
 - (iii) require and receive such explanations as are necessary concerning any matter under examination;
 - (iv) require any employee to produce cash, stores or any other Council property under his/her control; and
 - (v) require the assistance of employees at all levels of the Council in the preparation of internal audit reports.
- (e) At the end of each financial year, the Executive Director with s.151 responsibilities shall submit to the Executive a statement of outturn of all revenue expenditure for approval and presentation to the Council. The Executive Director with s.151 responsibilities shall submit the accounts to the Audit Committee for approval, in accordance with the Accounts and Audit Regulations; the accounts shall then be reported to the Executive and Council.
- (f) Subject to any instruction given by the Council to the Executive Director with s.151 responsibilities, their systems of accounting control and the form of their accounts and supporting records shall be determined by that officer, and he/she shall ensure that, subject to

compliance with any such instructions as are mentioned above, the systems of accounting control determined by him/her are observed and that the accounts of the Council are kept up to date.

- (g) Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council, the Chief Officer or Director concerned shall notify the Executive Director with s.151 responsibilities who shall satisfy himself/herself as to the arrangements for investigation, report and subsequent action.
- (h) The internal audit function shall be conducted in accordance with the latest professional guidance and its activity will be based on an annual plan and controlled in order to achieve the agreed objectives. Documents shall be produced and records shall be maintained to demonstrate adequate control and professionalism in the delivery of the audit service. The findings and recommendations from each audit review shall be included in a formal report which will be presented to the Executive Director with s.151 responsibilities, the Chief Executive and the Monitoring Officer.
- (i) To be agreed in advance with the Executive Director with s.151 responsibilities, internal audit will carry out Value for Money exercises, and provide quality assurance advice and support as agreed with Directors.

15. Income

- (a) The Executive Director with s.151 responsibilities shall make and maintain arrangements for:
 - (i) the financial organisation, accounting and book keeping necessary to ensure the proper recording of all sums due to the Council; and
 - (ii) the collection, custody, control, disposal and prompt and proper accounting for all cash in all service areas of the Council and has the right to inspect any documents or other evidence in this connection as he/she may decide.
- (b) All monies received on behalf of the Council in any service area shall be deposited promptly with the Executive Director with s.151 responsibilities.
- (c) Large amounts of cash shall not be held overnight unless this is unavoidable. Where money is held overnight, the amount must not exceed limits laid down by the Council's insurers and secure arrangements must exist for safe keeping (approved by the Executive Director with s.151 responsibilities). Keys to safes must be kept by the approved key holder(s) and any loss of such keys must be reported to the Executive Director with s.151 responsibilities immediately.

- (d) Officers must not under any circumstances borrow temporarily from Council monies. Personal money must be kept entirely separate from Council monies and personal cheques must not be cashed out of money held on behalf of the Council.
- (e) Every transfer of official money from one member of staff to another must be evidenced in the records of the service areas concerned by the signature of the receiving officer.
- (f) The Executive Director with s.151 responsibilities shall maintain a Sundry Debtor System. All requests for debts to be raised shall be made on the form provided and signed by the relevant Director. Reports of outstanding debtors shall be provided monthly to the relevant Chief Officer or Director.
- (g) All official receipt forms, account books, tickets and other financial items of a similar nature shall be in a form approved by the Executive Director with s.151 responsibilities and shall be ordered, controlled and issued by him/her and all recorded and acknowledged except for car parking tickets which should be ordered, controlled and issued by a Director, subject to the Executive Director with s.151 responsibilities being satisfied with the control arrangements. The Director of each service area shall be responsible for the safe custody and proper use thereof.
- (h) Particulars of all charges to be made for works done, services rendered or goods supplied by the various service areas of the Council and of all other amounts due shall be promptly notified to the Executive Director with s.151 responsibilities.
- (i) No new charges or changes in existing charges shall be made except upon a report (prepared by the Director concerned in conjunction with the Executive Director with s.151 responsibilities) to initially the Executive, and ultimately, a recommendation to the Council, except that:
 - (i) the Executive Director with s.151 responsibilities, in conjunction with the Director concerned, may increase the existing charges annually in line with inflation or take account of changes in the rate of VAT; or
 - (ii) with the approval of the Executive, the Director, in liaison with the Executive Director with s.151 responsibilities, may vary existing charges where in his/her opinion there is an urgent need or demand for changes in these charges, subject to a report being made to the next meeting of the Council.

16. Write off of debts and losses

- (a) No money due to, or inventory items of, the Council shall be written off without the authority of the Executive except that the Executive

Director with s.151 responsibilities may, after consulting any Chief Officer or the Director concerned:

- (i) authorise the writing off of any loss of money or stores or inventory item not exceeding £5,000;
- (ii) approve the abandonment or remission of any claim for money due to the Council when the sum involved does not exceed £5,000;
- (iii) write off irrecoverable charges on bankruptcy or liquidation.

17. Orders

- (a) Except where a formal contract is made, all orders for work, goods and services shall be issued only by email or printed automatically using the computerised financial management system (i.e. official orders) approved by the Executive Director with s.151 responsibilities provided that the Executive Director with s.151 responsibilities may waive this requirement exceptionally in relation to particular orders such as supplies of public utility services, periodic payments, rent or rates, or otherwise.
- (b) Before an order is issued it shall be established that there is sufficient provision in approved estimates and/or other approvals have been obtained. The provisions of the Contract Procedure Rules shall be followed for obtaining tenders and quotations. The tendered or quoted price of the work, goods or services shall be stated on the order.
- (c) Oral orders shall be confirmed by official order prepared the same day. Any invoices received for which an official order cannot be traced shall be forwarded immediately to the Executive Director with s.151 responsibilities together with an explanatory memorandum. No Chief Officer or Director shall use order forms other than those electronic orders provided by the financial management system.
- (d) All orders shall, so far as possible, be issued in sufficient detail to identify completely and accurately the work, goods or service required, and shall specify where applicable the quotation, contract or other relevant agreement.
- (e) Orders shall be authorised by the appropriate Chief Officer or Director or other officer authorised by him/her after consultation with the Executive Director with s.151 responsibilities to approve on his/her behalf, provided that officers authorised to approve orders shall approve in their own name. The names of officers authorised to approve/sign such orders shall be sent, annually or on request, to the Executive Director with s.151 responsibilities by each Chief Officer or Director together with specimen signatories and shall be amended on the occasion of any change.

- (f) All orders shall be placed in accordance with the requirements of the Contract Procedure Rules in respect of the invitation of tenders and quotations.
- (g) An officer ordering materials shall consider the use of any central purchasing arrangements and to the possibilities of the standardisation of supplies and materials.
- (h) Any previously owned vehicles being purchased by the Council must be subject to a satisfactory data check on the vehicle's history by the Executive Director with s.151 responsibilities before the Council is committed to the purchase of the vehicle.

18. Payment of Expenditure

- (a) All payments by the Council, except payments authorised under imprest accounts, and payments of salaries and wages shall be made by the Executive Director with s.151 responsibilities who shall satisfy himself/herself from time to time that there are proper arrangements in place to ensure that any amount is properly due and only such amounts are paid by the Council.
- (b) Each Director shall be responsible for arranging to have checked and certified all invoices, claims and accounts and input where appropriate arising to be dealt with in his/her service area as to their correctness in every respect. All such invoices, claims and accounts so checked and certified and complete with details of allocation and coding shall be passed without delay to the Executive Director with s.151 responsibilities so that they may be processed for payment. The names of officers authorised to certify monies for payment shall be sent, annually or on request, to the Executive Director with s.151 responsibilities by each Director together with specimen signatures, and shall be amended on the occasion of any change.
- (c) Directors shall ensure that there is a division of duties between processing of orders, receipt of goods or services and certifying of invoices.
- (d) Certification shall mean:
 - (i) an official order has been issued in compliance with Rule 17 or falls within the exceptions authorised by that Rule;
 - (ii) the work, goods or services to which the account relates have been received, carried out, examined and approved;
 - (iii) the prices, arithmetical accuracy, trade discounts, other allowances, credits and tax are correct and in accordance with quotations, contracts and valuations;
 - (iv) any VAT element of the payment has been correctly identified;

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- (v) the relevant expenditure has been properly incurred, is within the relevant estimate provision and is coded to the correct heads of expenditure;
 - (vi) the account has not been previously passed for payment and is a proper liability of the Council.
- (e) Each Director shall submit urgently and in sufficient time for the discount to be obtained all certified and checked invoices, claims and accounts subject to discount for prompt payment.
 - (f) Each Director shall, to the extent requested by the Executive Director with s.151 responsibilities and by the date specified, notify him/her of outstanding expenditure relating to the previous financial year.
 - (g) Any voucher or other document relating to the financial transaction of the Council shall be retained for a minimum of 6 years.
 - (h) When an invoice is found to be incorrect it must not be amended by an officer, but a revised account must always be requested from the creditor. Any alteration will result in the account being invalid for the purposes of VAT where applicable.
 - (i) Payments will not be made on photocopies or fax copies of invoices.
 - (j) Payment will be made direct to the creditor or his/her bank.
 - (k) The payment of the sums due from the Council shall be made by the Executive Director with s.151 responsibilities after entry on a Payments Listing.
 - (l) Payments Listing shall be as follows:
 - (i) a weekly Payments Listing which shall be for routine payments;
 - (ii) an Urgent Payments Listing for payments not covered by sub-section 16 (a) above on a daily basis as required.
 - (m) Payments shall be made within 30 calendar days of receipt of invoice unless agreed otherwise by the Executive Director with s.151 responsibilities.

19. Wages and Salaries

- (a) The payment of all salaries, wages, pensions and other emoluments and authorised payments to all employees or former employees of the Council shall be the responsibility of the Directors.
- (b) The Directors are responsible for initiating changes to the payroll shall maintain such records and supply certified and authorised information as may be necessary to ensure the prompt and accurate payment of salaries, wages, pensions and other emoluments.

- (c) Responsible officers shall notify the Directors as soon as possible, in the agreed form and manner of all matters affecting the payment of such emoluments and in particular:
 - (i) appointments, resignations, dismissals and transfers, changes in remuneration, other than normal increments and pay awards and agreements in general;
- (d) Responsible officers shall notify the Directors in respect of :
 - (i) absences from duty for sickness or other reason, apart from approved leave;
 - (ii) information necessary to maintain records of service for pensions, income tax, national insurance and the like.
- (e) Time sheets shall be certified by the Chief Officer or Director of the service area concerned or certified by the appropriate delegated authorised officer.
- (f) All records relating to salaries, wages, social security, superannuation and income tax payments of the Council's employees shall be kept by the Directors who shall be responsible for the payment of such salaries and wages.

20. Stores

- (a) Each Director shall be responsible for the proper custody of stores held by him/her.
- (b) The accounts to be kept in connection with the receipt and issue of stores shall be in such form as shall be agreed with the Executive Director with s.151 responsibilities and shall be subject to his/her examination and check at such times as he/she thinks fit.
- (c) The Executive Director with s.151 responsibilities in conjunction with the Director concerned shall make such arrangements for stock-taking as the Executive Director with s.151 responsibilities may deem necessary.

21. Security

- (a) Each Director shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc, under his/her control.
- (b) Maximum limits for cash holdings in accordance with insurance shall be agreed with the Executive Director with s.151 responsibilities and shall not be exceeded without his/her express permission.

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- (c) Keys to safes and cash receptacles are to be carried on the person of those responsible at all times. The loss of any keys must be reported to the Executive Director with s.151 responsibilities forthwith.
- (d) Each Director shall be responsible for maintaining appropriate security measures to ensure against unauthorised access to, or alteration, disclosure or destruction of, personal data and against accidental loss or destruction of personal data in accordance with data protection legislation in force at any time.
- (e) The Executive Director with s.151 responsibilities shall be responsible for maintaining proper security and privacy of information held in the computer installation or for its use.

22. Travel and Subsistence Allowances etc

- (a) Travel claim forms should be completed for each calendar month and submitted to the appropriate Director.
- (b) Claims for expenses (including rail fares) and subsistence must be accompanied by receipts showing VAT where applicable, and submitted to the appropriate Director.
- (c) Claims for mileage allowance will be paid with salary and not reimbursed through petty cash.
- (d) Claims must be authorised by the Chief Officer or Director or appropriate delegated authorised signatory. Chief Officers and Directors shall be responsible for ensuring that payment of travel and subsistence expenses are checked as valid and accurate prior to certification. Certification by or on behalf of the Chief Officer or Director shall be taken to mean that the certifying officer is satisfied that the journeys made were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council.
- (e) All officers who use their private cars for official journeys shall indemnify the Council against claims from third parties and shall produce their driving licence, insurance policies and/or renewal receipts as required by the Executive Director with s.151 responsibilities.
- (f) Payments to councillors for travel or other allowances, in accordance with the appropriate statutory provisions, will be made by the Executive Director with s.151 responsibilities upon receipt of the prescribed form duly completed. Councillors are encouraged to submit claims on a monthly basis for expenditure to be accounted for within the appropriate month.

23. Irregularities

- (a) Where any officer has cause to suspect irregularity he/she shall inform

his/her Director who will inform both the Chief Executive and the Executive Director with s.151 responsibilities and provide facilities for investigation to the Council's Auditors, as stated in the Whistle-Blowing Policy adopted by the Council.

- (b) Should it be considered that irregularity has occurred or is occurring, the Head of Paid Service, Section 151 Officer or Monitoring Officer shall consider whether it is appropriate to inform the Leader and prepare a report for the Executive.

24. Grant applications and claims

- (a) All applications and claims for external grants made on behalf of the Council (whether capital or revenue) shall be approved by the Executive Director with s.151 responsibilities.
- (b) Proposals for new initiatives which are to be funded by external grants shall be subject to business case approval by the Executive Director with s.151 responsibilities except where such initiatives will require additional funding (either capital or revenue) beyond that contained within the approved estimates.
- (c) Approval of the Executive with a report to the Council shall be required where grant funded initiatives will require additional funding (either capital or revenue) beyond that contained within the approved estimates.

OFFICER EMPLOYMENT PROCEDURE RULES

These Rules incorporate the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 ('the Regulations').

1. 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.

2. 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.

3. 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)).

4. 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).

5. 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.

6. 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).

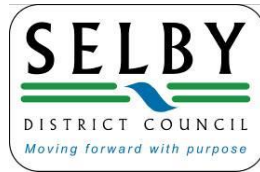
- (c) In the case of the Head of Paid Service, the Council must approve that dismissal before the notice of dismissal is given.

7. Other Officers

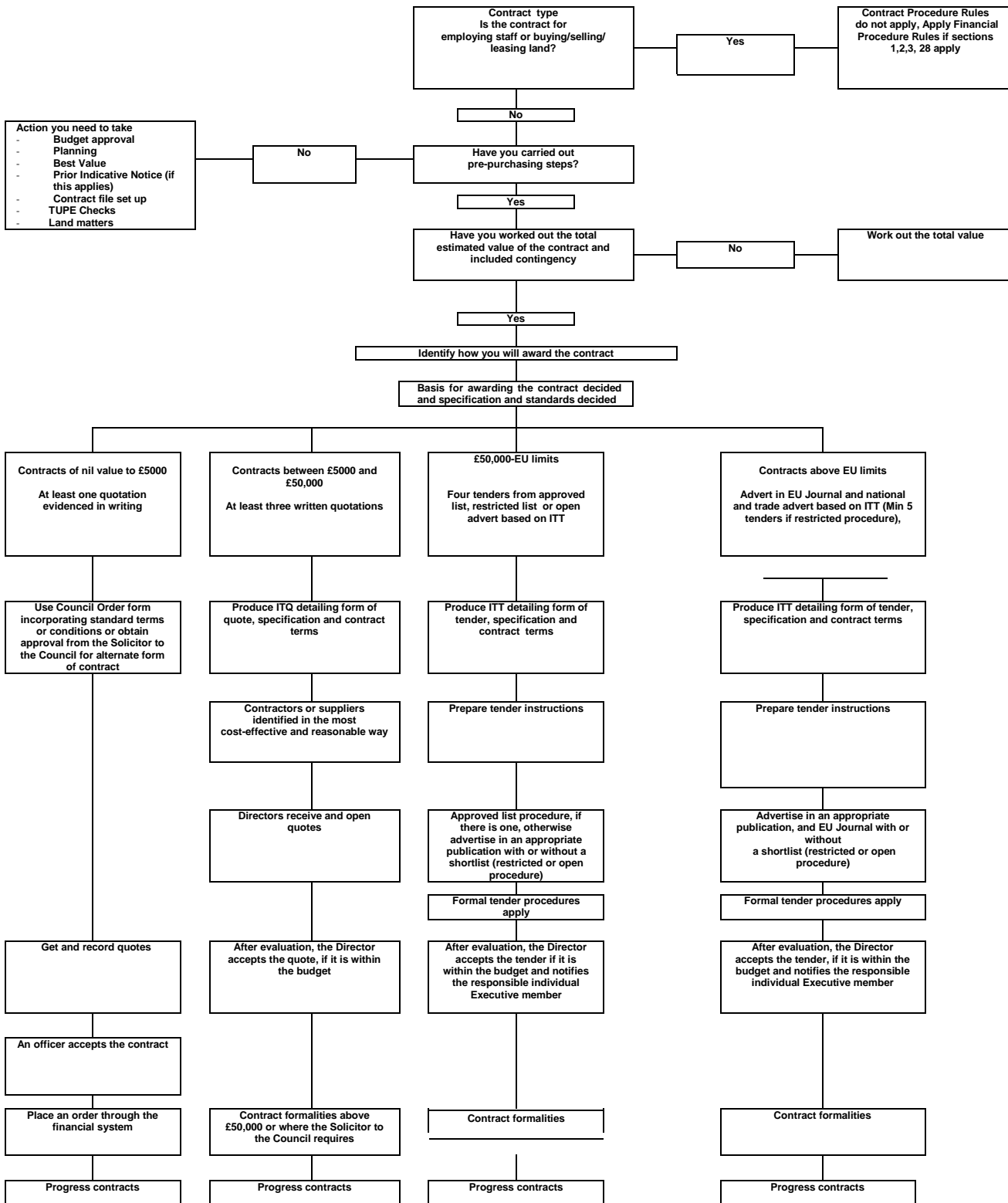
- (a) **Officers other than those referred to in rules 3, 4, 5 and 6 above** Appointment, dismissal, or the taking of disciplinary action against all other officers is the responsibility of the Head of Paid Service or an officer nominated by him/her.
- (b) Councillors will not be involved in the appointment, dismissal or discipline of any officer below Chief Officers, the Section 151 Officer or the Monitoring Officer.

8. Appointment to be on merit

- (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.



CONTRACT PROCEDURE RULES



This table only briefly explains Contract Procedure Rules. You should still read all these Contract Procedure Rules fully.

1. Introduction

- 1.1 The definitions used in these Contract Procedure Rules (CPRs) are set out in Part 28.
- 1.2 Every contract made by the Council shall be conducted in accordance with these CPRs except:
- (a) where an exemption is made by the Executive or a committee satisfied that special circumstances justify an exemption; and
 - (b) in cases where the Council is acting on behalf of, or under arrangements with another body and it is a requirement that the rules of that body apply.
- 1.3 Any exemption made in accordance with paragraph 1.2 (a) above shall be recorded in the minutes.
- 1.4 The financial limits and thresholds specified in the Schedule shall be reviewed every 2 years by the Executive or a committee.
- 1.5 Any contract with a value exceeding £50,000 entered into on behalf of the Council must be signed by a Chief Officer and the Chairman of the Council - or made under the Common Seal of the Council and attested in accordance with its usage requirements.
- 1.6 Directors shall provide the Solicitor to the Council with any necessary information and access to all documents and records under their control as may be required to fulfil all the obligations and requirements of these CPRs.
- 1.7 The decision of the Chief Executive will be final in any matter concerning the interpretation of these CPRs.
- 1.8 Failure to comply with the CPRs may result in disciplinary action.

2. General Responsibilities of Directors

- 2.1 In procuring works, goods and/or services Directors shall always:
- (a) achieve Best Value for public money spent;
 - (b) show no undue favour to any contractor, nor discriminate against contractors from other European Union (EU) states;
 - (c) conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);
 - (d) do nothing that contravenes EU or domestic law;

Part 4 – Rules of Procedure

- (e) ensure that adequate contract files are kept for all contracts upon which they are engaged;
 - (f) ensure that before entering into any contract:
 - (i) there is adequate approved budgetary provision;
 - (ii) in relation to capital schemes, the necessary Capital Start Authority has been obtained;
 - (iii) there is the appropriate authority.
 - (g) ensure that their staffs comply strictly with Contract Procedure Rule 3;
 - (h) keep a register of all contracts where the contract value is below £50,000;
 - (i) Ensure that all contracts where the contract value exceeds £50,000 are passed to the Solicitor to the Council for sealing and safekeeping; and
 - (j) keep a record of all exemptions recorded under paragraph 20.2.
- 2.2** For the purposes of these CPRs, the estimated value of a contract shall be the estimated total value net of VAT.
- 2.3** Contracts must not be artificially divided to keep them below any threshold which may apply.
- 2.4** Where a contract spans more than one accounting period then for the purposes of these CPRs the aggregate value of the contract shall be taken to be the contract value.
- 3. Officer Responsibilities**
- 3.1** The officer responsible for a purchase, disposal or submission of a tender must comply with these Contract Procedure Rules, Financial Regulations, Code of Conduct and with all United Kingdom and European Community binding legal requirements.
- 3.2** The officer is responsible for ensuring that:
- (a) the requisite authority under the Constitution is obtained to enter into a contract;
 - (b) a specification that will form the basis of the contract is prepared;
 - (c) an estimate of the whole life cost of a proposed contract, including maintenance and ongoing costs is prepared;
 - (d) that a risk register is prepared in respect of contracts with an estimated value greater than £50,000;

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- (e) that any proposed contractor has the technical capability to deliver the project;
- (f) any proposed contractor has the financial and resource capacity (taking into account contract value and risk) to perform the contract;
- (g) these rules, the Financial Procedure Rules and any Codes of Practice are complied with;
- (h) any agents, consultants, and contractual partners acting on the Council's behalf follow a process which provides for equivalent competition to these rules; and

3.3 The officer shall maintain a contract file in respect of each procurement exercise for a contract with a value exceeding £5,000 which will include:

- (a) the name of officers undertaking the procurement process;
- (b) the rationale for the procurement route taken;
- (c) a copy of the specification;
- (d) in relation to contracts with a value exceeding £50,000, the risk register;
- (e) a written record of any exemption from Contract Procedure Rules and the reason for it;
- (f) copies of all tenders or quotations;
- (g) a copy of the evaluation process and reasons for the decisions as to acceptance or rejection of every tender or quotation;
- (h) a copy of any debrief request and the response thereto;
- (i) the award letter;
- (j) the signed order form or copy of the signed final contract;
- (k) copies of the contract review and management process including the details of the officer responsible for ongoing contract management; and
- (l) a copy of any extension to the contract in accordance with CPR.

3.4 The officer shall offer a debrief to all tenderers whether successful or not, to assist them in preparing future bids.

4. Steps prior to Procurement

4.1 Prior to procuring goods or services officers must:

- (a) take into account the requirements arising from any Best Value review;

- (b) ascertain whether a contractual arrangement is already in place or central purchasing arrangements exist or are being contemplated;
- (c) appraise the need for the expenditure and its purpose;
- (d) define the objectives of the purchase;
- (e) assess the risks associated with the procurement and determine how to manage them;
- (f) ascertain whether the service can be undertaken in-house from within the Council's own resources;
- (g) consider what procurement method is most likely to achieve the purchasing objectives, including using a framework agreement, consortium, collaboration with other purchasers, partnering and long-term relationships;
- (h) prepare a specification and consider any European or British Standards that may need to be specified;
- (i) identify and obtain any approvals that may be required;
- (j) estimate the value and record how that estimate was arrived at;
- (k) clearly determine how any tender or quotation will be evaluated;
- (l) prepare communications upon how any tender or quotation will be evaluated to prospective tenderers;
- (m) ascertain whether a "prior information notice" has been, or should be, published; and
- (n) identify whether a standard form of contract which has been approved by the Solicitor to the Council for the proposed procurement exists, and should be specified when inviting quotations or tenders. Always consult with the Solicitor to the Council in regards to an appropriate form of contract to be utilised.

5. Corporate Purchasing Arrangements

5.1 Where a recurring pattern of purchases for like works, supplies or services is identified, advice should be sought from the Procurement Partnership Advisor upon establishing and adopting Central Purchasing Arrangements. Consideration should be given to:

- (a) whether the works, supplies or services are or are capable of being delivered by the Council itself;
- (b) whether a nationally or regionally negotiated contract exists which can be accessed (for example through the Office of Government Commerce or Centre of Excellence);

- (c) whether one or more Corporate Framework Contracts or arrangements will provide better value in terms of price, service, invoicing or other administration costs;
 - (d) whether letting such a contract through a consortia of which the Council is a member will achieve procurement efficiencies;
 - (e) whether goods, services or works would be better obtained through a Measured Term Contract;
 - (f) whether efficiencies can be gained through the adoption of an e-procurement solution such as a Purchasing card; and
 - (g) how any consequent procurement exercise will be led and managed.
- 5.2** A Framework Contract to which more than one contractor is party must provide for competition between the contractors in respect of any Call Off above £50,000.
- 5.3** Where aggregate annual spend in a given category of supply or service exceeds EU Procurement levels, a Framework Contract must be tendered in accordance with EU Procurement Rules for a maximum duration of 4 years.
- 5.4** Any framework contract let by the Council in accordance with EU rules shall include the following text within the Official Journal of the European Union (OJEU) notice:
- “Tenderers should be aware that although the contracting authority for the purposes of this procurement is Selby District Council one or more other local authorities and/or public bodies may choose to access the concluded contract, without creating any obligation on behalf of any of them to do so”.
- 5.5** Where central purchasing arrangements exist or are established there shall be a presumption in favour of using those arrangements. These include arrangements undertaken by the Director for the following:
- (a) General materials, plant and vehicles;
 - (b) Office equipment, printing and stationery;
 - (c) Construction and Project Management Services; and
 - (d) Computer equipment.
- Any departure from the foregoing arrangements must be agreed in writing with the central purchasing service concerned.
- 5.6** Unless the Council is obliged by a third party to offer work to competitive bids (for example where there is grant funding) goods, services or works should be obtained from in-house services or approved central purchasing arrangements.

Requirement to obtain quotations or tenders

6. Pre-tender/quotation enquiries

6.1 The officer responsible for the purchase:

- (a) may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential contractor.

6.2 In making enquiries:

- (a) no information shall be disclosed to one contractor which is not then disclosed to all those of which enquiries are made;
- (b) no Contractor shall be led to believe that the information they offer will necessarily lead to them being invited to tender or quote, or awarded the contract;
- (c) no technical advice on the preparation of the Invitation to Tender or Quotation must be sought from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential contractors or distort competition; and
- (d) a written record including notes of any meetings held and the names of any individuals present shall be kept on the contract file.

7. Contract Specifications

7.1 Before entering into a contract with any firm, or arranging for works or services to be carried out by another Director, the appropriate Director must:

- (a) be satisfied that a Specification which will form the basis of the contract/arrangement has been prepared; and
- (b) have prepared and documented an estimate of the cost of the contract/arrangement, including where appropriate any maintenance costs.

7.2 Contract specifications shall specify:

- (a) the task required, their volume and frequency;
- (b) the level of input, time and resources required or the outputs required;
- (c) the facilities on-site and access to them;
- (d) the standards of performance expected and consequences of non compliance or failure to deliver required services or goods;

- (e) the length of any contract and any other details not included elsewhere;
 - (f) quality of materials; and
 - (g) relevant Council policies.
 - (h) consideration of health & safety requirements and policies.
- 7.3** Technical specifications shall be defined by reference to relevant European specifications or, where they do not exist, in the following order:
- (a) to British technical specifications;
 - (b) British standards implementing international standards;
 - (c) other British standards; and
 - (d) technical approvals or any other standards.
- 7.4** Technical specifications should not refer to trade marks, nominated suppliers, patents, specific makes, sources or means of production unless the subject matter of the contract either:
- (a) justifies the reference; or
 - (b) cannot otherwise be described by reference to technical specifications that are sufficiently precise and intelligible to all contractors. In such circumstances the specification must be qualified by the words “or equivalent”.
- 8. Procedures for contracts with a value up to £5,000**
- 8.1** For contracts with a value up to £5,000 the only requirement is that at least one quotation shall be sought and evidenced in writing.
- 9. Procedures for contracts with a value between £5,001 and £50,000**
- 9.1** For contracts with a value between £5,001 and £50,000 at least 3 written quotations shall be requested upon an **Invitation to Quote**. The Invitation to Quote must:
- (a) be in a form approved by the Solicitor to the Council;
 - (b) specify the goods, services or works that are required, together with the terms and conditions of the contract that will apply; and
 - (c) state that the Council is not bound to accept any Quotation.
- 9.2** All quotations shall either:
- (a) be addressed to the appropriate Director or Procurement Partnership Advisor in an unmarked, sealed envelope endorsed only with the word

“Quotation” and the subject matter of the quotation; or

- (b) be delivered to the appropriate Director or Procurement Partnership Advisor via an electronic procurement system which has been adopted by the Council.

9.3 A quotation may be accepted by the appropriate Director provided that where the most economically advantageous criteria are used a written note shall be placed on the contract file giving the reason(s) for accepting the quotation.

9.4 Unless the Solicitor to the Council considers a formal contract document is necessary, orders for procuring goods and/or services the value of which is no greater than £50,000 shall be on the official form of order (official order) as approved by the Executive Director with s 151 responsibilities.

9.5 All official orders must be issued in sufficient detail and refer to the/a reference where available:

- (a) to identify the works, goods and/or services required;
- (b) the price to be paid; and
- (c) the time within which the contract is to be performed and show the appropriate expenditure code.

9.6 Competitive prices may be sought and received electronically provided that hard copies of all electronically processed information and correspondence relating to the price are made and retained on the contract file.

9.7 Officers authorised to sign official orders shall not certify the receipt of any goods or services (unless cross checked by another officer) for which they have signed the order.

9.8 Any orders which are given orally must be confirmed by an official order on the same day, or as soon as possible thereafter.

9.9 Where goods and/or services are obtained under agreement from a contractor throughout a year it shall be sufficient to invite quotations once in that year, however, consideration must be given to establishing a Framework or Measured Term Contract.

10. Procedures for contracts with a value between £50,001 and EU procurement levels

10.1 Any contract with a value between £50,001 and EU Procurement levels shall be procured upon an Invitation to Tender in accordance with the Approved List or Restricted Procedure unless the appropriate Director, in consultation with a Chief Officer, has decided that tenders for a contract are to be obtained by open competition on the basis that the approved list or restricted list procedure would be inappropriate for the particular contract.

10.2 Approved List Procedure

- (a) The Approved List procedure shall be used where the appropriate Director, in consultation with the Solicitor to the Council and a Chief Officer has determined that a list shall be kept of persons to be invited to tender for contracts for the supply of goods and/or services of specified categories, values or amounts.
- (b) The list shall:
 - (i) be compiled and maintained by the Procurement Partnership Advisor or in such other manner as the Executive may approve;
 - (ii) contain the names of all contractors who are approved for inclusion in Invitations to Tender under the Approved List Procedure; and
 - (iii) indicate whether the contractors whose names are included in it are approved for contracts for all or only some of the specified values, amounts or categories.
- (c) At least 4 weeks before the list is first compiled public notice inviting applications for inclusion on the list shall be published via the Council's website and/or Electronic Contract Management System. Thereafter the list may be compiled and maintained in such a manner as the Executive may approve.
- (d) Where an invitation to tender for a contract is limited to contractors whose names appear on the list, invitations to tender shall be sent to:
 - (i) not less than 4 contractors selected in a manner that ensures open and fair competition amongst those approved for a contract of the relevant category or value; or
 - (ii) where fewer than 4 contractors are approved for a contract of the relevant category and value, all those contractors.

10.3 Restricted Procedure - (Pre-qualification)

- (a) The restricted procedure shall be used where the proposed contract does not fall within one of the specified categories for the approved list procedure.
- (b) Where this procedure applies, the invitation to tender is to be limited to contractors who reply to a public notice advertising the contract.
- (c) Public notice shall be given in at least one local newspaper and, at the appropriate Director's discretion, in other trade journals and regional or national media. The response time allowed should be at least 14 calendar days. [For EU contracts, notices must be placed in the OJEU at the same time and the response time must be in accord with EU

Timescales]. The advertisement must include the following information:

- (i) what the contract involves (and if available the form of contract to be used);
- (ii) an invite to people to register their interest and fill in a Pre-Qualification Questionnaire (PQQ)

The PQQ will provide:

- proof of their technical ability;
 - their financial position;
 - their equalities policy;
 - health and safety policy;
 - environmental policy; and
 - any other information that is identified as necessary including the intended criteria for assessment.
- (iii) that a shortlist will be drawn up and only contractors or suppliers on the shortlist will be invited to tender; and
 - (iv) the timescales involved and the name and address of the Director, so that they can register their interest and return the information.
- (d) After the expiration of the period specified in the public notice, the contractors who are proposed to be Invited to Tender shall be determined by the appropriate Director and Invitations To Tender for the contract sent to not less than 4 contractors (save that all contractors who have provided the information required under rule 10.3(c)(ii) will be invited to tender where fewer than 4 respond).
 - (e) If EU procurement legislation applies, any advertisements, timescales and procedures must be in accordance with the requisite EU timescales and the number of contractors invited to tender in accordance with rule 10.3(d) is increased to 5.

10.4 Open Procedure without shortlisting

- (a) The open tendering procedure allows for all contractors who are interested in tendering for a contract to submit a tender. It shall apply where:
 - (i) a Director in consultation with a Chief Officer has decided that tenders for a contract are to be obtained by open competition on the basis that other forms of tendering for the contract are unlikely to give rise to adequate competition; or
 - (ii) the contract and subsequent documentation is for the disposal of land.

- (b) Where this procedure applies at least 10 calendar days' public notice shall be given in one or more local newspapers and, at the appropriate Director's discretion, in other regional or national media and appropriate trade journals.
- (c) The advertisement must include the following information:
 - (i) what the contract involves;
 - (ii) an invitation to people to register their interest;
 - (iii) that an Invitation to Tender and questionnaire are available when they register which they should complete in full and return to the Council to consider;
 - (iv) the latest date and time by which they must return their completed tender, questionnaire and other documents; and
 - (v) the name and address of the Director so that they can register their interest and obtain the tender and questionnaire.
- (d) An Invitation to Tender and questionnaire must be sent to everyone who shows an interest.
- (e) If EU procurement legislation applies, any advertisements, timescales and procedures must be in accordance with the requisite EU timescales.

Contracts to which EU procurement rules apply

11. Thresholds

11.1 Advice should be sought from the Solicitor to the Council in respect of any procurement with an estimated value greater than EU Procurement thresholds upon whether EU Procurement Rules apply. The threshold values are reviewed on a regular basis, normally every 2 years.

11.2 Procurement exercises with an estimated contract value within 10% of Threshold levels where EU Procurement Rules apply should also be advertised in the OJEU to avoid OJEU advertising requirements being unintentionally breached.

11.3 Standards

If the European Committee for Standardisation (CEN) has issued a relevant standard, all the goods and materials used or supplied, and all the work done under the contract, must be in line with that standard.

11.4 The Euro

A provision should be included in any contractual documentation requiring the contractor to convert prices from sterling to Euro and to submit invoices

for payment accordingly once the contractor is given notice to do this.

11.5 Number of tenderers

If the contract is expected to exceed EU limits, a minimum of 5 contractors or suppliers must be invited to tender save where the adopted procedure provides otherwise. (In cases where fewer than 5 contractors or suppliers apply and are shortlisted, all contractors or suppliers must be invited to tender.

11.6 If during the course of a competitive tendering exercise, an officer becomes aware that the value of bids received exceeds the EU Thresholds, but bid invitations have not been extended through the OJEU notice procedure - as it was anticipated that the threshold would not be exceeded, advice must be sought from the Solicitor to the Council upon how to proceed.

11.7 Where the Council has an aggregated requirement for specified goods or services with an estimated annual value at or greater than the figures provided in Table 1, a Prior Indicative Notice (PIN) must be placed in the Supplement to the OJEU once annually.

11.8 Buyer's Profile

The Procurement Partnership Advisor shall publish and maintain a buyer's profile via the internet incorporating the following information:

- (a) a brief description of future and current tenders within the year 1 April to 31 March;
- (b) the date the advert was dispatched to OJEU;
- (c) the OJEU reference number;
- (d) the closing date for notification of interest in relation to expressions of interest;
- (e) the tender dispatch date;
- (f) the closing date for tenders;
- (g) the award date;
- (h) the identity of the successful tenderer;
- (i) the award notice reference number; and
- (j) the date of the award notice.

11.9 EU Procedures:

All contracts with a value in excess of EU limits shall be let in accordance with a procurement method which is acceptable within EU law. The

acceptable methods are:

- (a) the Restricted Procedure, (paragraph 10.3 above);
- (b) the Open Procedure, (paragraph 10.4 above);
- (c) the Negotiated Procedure, under which purchasing bodies may negotiate the terms of a contract with one or more suppliers of their choice. The Negotiated Procedure must never be used without specific written advice from the Solicitor to the Council confirming that he/she considers that the procedure applies. Advice upon the potential application of the Negotiated Procedure must be sought where:
 - (i) the open or restricted procedure has produced no tenders;
 - (ii) the contract follows a design contest and the rules require it to be awarded to the successful contestant;
 - (iii) there is extreme urgency and:
 - (a) the events that have led to extreme urgency were not foreseeable and were not attributable to the contracting authority;
 - (b) the time limits required for open and restricted procedures cannot be met; and
 - (c) the scope of the proposed contract is necessary to respond to the immediate emergency.
 - (iv) a restricted procedure was discontinued because of irregular tenders.
- (d) Competitive Dialogue: subject to the agreement of the Solicitor to the Council the Authority may use the Competitive Dialogue procedure to advertise its needs, requirements and Award Criteria rather than a specific contract, to enable the development of solutions for a final contract through dialogue:

The pre-tender stage:

- (i) determination of the form of contract to be tendered is not required prior to the final tender stage;
- (ii) a candidate submitting a bid within the competition must be treated equally with, and be provided with the same information as, any other candidate;
- (iii) information provided by candidates within the competition is treated as confidential and must not be disclosed to third

parties, save with the agreement of the candidate concerned;
and

- (iv) the evaluation team may enter into dialogue with a number of candidates in order to:
 - (a) develop solutions upon which to invite tenders; and
 - (b) determine the Award Criteria to be applied.

The preliminary tender stage:

- (v) a minimum of 3 candidates must be selected to participate in the preliminary tender stage unless less than 3 candidates meet the Award Criteria, in which case all qualifying candidates must be invited to participate;
- (vi) the evaluation team may enter into dialogue with those invited to submit a preliminary tender to:
 - (a) clarify their preliminary tenders;
 - (b) ensure they meet the Authority's requirements; and
 - (c) establish the principal terms for the proposed contract.
- (vii) the evaluation team must evaluate the preliminary tenders against the pre-determined Award Criteria to determine which preliminary tender is the most economically advantageous.

The final tender stage:

- (viii) at the final tender stage best and final offers on the proposed contract must be invited from those tenderers who have submitted a preliminary tender and have not formally withdrawn from the process; and
- (ix) subsequent dialogue with the winning bidder will only be permissible if it does not impose any substantial new requirement, or have the effect of modifying substantial aspects of the tender.

11.10 Where the Restricted Procedure, Open Procedure or Competitive dialogue are used, the Council is required to place a Contract Notice in the OJEU and the timescale for expressions of interest in response to such notices is prescribed.

Advertisement is subject to the following constraints:

- (a) Legal advice must be sought upon the applicable timescales; and

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- (b) the accelerated procedure may only be used with the consent of the Solicitor to the Council.

Table 2 sets out the ordinary timescales. The applicable timescales may be reduced further as indicated in Tables 3 and 4 where electronic systems are used to publish the contract notices and provided unrestricted electronic access to documentation.

Table 2: Advertisement in OJEU without use of electronic media:

Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from contract notice	-	37 days	15 days	37 days (if poss.)
(ii) to the closing date for receipt of tenders	52 days	40 days	10 days	21 days*
(iii) as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	36 days	26 days	N/A	21 days*(i.e., same as above)
(iv) Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
(v) Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

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Table 3: Notice of contract compiled and submitted electronically:

Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice	-	30 days	10 days	30 days (if poss.)
(ii) to the closing date for receipt of tenders	45 days	35 days	10 days	14 days*
(iii) as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	29 days	19 days	N/A	14 days*(i.e., same as above)
(iv) Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
(v) Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

Table 4: Notice of contract compiled and submitted electronically and unrestricted electronic access to all contract documentation provided at tender receipt stage

Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice	-	30 days	10 days	30 days

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Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(ii) to the closing date for receipt of tenders	40 days	14 days	10 days	21 days*
(iii) as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	29 days	5days	N/A	21 days*(i.e., same as above)
(iv) Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
(v) Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

* calendar days (the caveat is that the time frame must allow to start and finish on a working day)

12. Submission of Tenders

- 12.1** All hard copy tenders shall be addressed to the Director (designated officer).
- 12.2** Subject to paragraph 12.3 where an electronic tendering system is available which meets the satisfaction of the Solicitor to the Council and the Executive Director with s.151 responsibilities, Invitations to Tender may be transmitted by electronic means.
- 12.3** Tenders may be submitted by electronic means provided that:
- (a) evidence that the transmission was successfully completed is obtained and recorded;
 - (b) each tender submitted electronically is deposited in a secure mailbox approved by the designated officer before the return date; and
 - (c) electronic tenders are kept in a separate secure folder until the deadline is passed for receipt of tenders.
- 12.4** No hard copy tender may be considered unless it is contained in the approved form of envelope endorsed only with the word "Tender" and the

subject to which it relates and addressed and delivered to the designated officer. The envelope must not bear any mark or name indicating the name of the sender.

- 12.5** The date and time of receipt of every hard copy tender shall be indicated on the envelope by the designated officer and must remain in the secure custody of the Solicitor to the Council until the time and date appointed for their opening.
- 12.6** Any tender received after the time specified for the receipt of tenders but before the opening of tenders may be opened and accepted provided that if such a tender is accepted, the fact that it was a late tender is reported to the Executive or relevant Committee.
- 12.7** Any tender received after the opening of tenders has taken place, must be promptly returned to the tenderer. The tender may be opened to ascertain the name of the tenderer but no details of the tender may be disclosed.
- 12.8** No alteration of any tender shall be allowed after the closing date for the receipt of tenders except as allowed in accordance with post-tender negotiation.

13. Opening and Registration of Tenders

- 13.1** All tenders for a contract shall be opened at one time in the presence of a member of the Internal Audit team and the appropriate Director.
- 13.2** A Director (or his nominee as relevant) shall at the time tenders are opened, record in a book kept for this purpose the following:
- (a) the nature of the goods or services to be provided;
 - (b) the name of each tenderer by or on whose behalf a tender was submitted;
 - (c) the date and time of receipt of each tender as recorded on the envelope;
 - (d) the amount of each tender;
 - (e) the date and time of the opening of the tender; and
 - (f) the names of all persons present at the opening of the tenders.

- 13.3** The tenders opened shall be signed and dated by the Director.

14. Evaluation of Quotations or Tenders

- 14.1** Quotations or tenders may be evaluated on the basis of one of the following criteria.
- (a) the most economically advantageous quotation or tender where

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criteria other than price are important;

- (b) the highest price (if we are receiving the payment); and
- (c) the lowest price (if we are making the payment).

Contractors or suppliers must be advised in the Invitation to Quote or Tender which will be used:

If using criteria (a) all the criteria to be considered must be included in the Invitation to Quote or Tender. The inclusion of the criteria must be relevant, objectively justified and listed in order of importance e.g.:

- (i) technical excellence;
- (ii) price;
- (iii) quality of services, work materials or goods; and
- (iv) a commitment to continuous improvement.

- 14.2** An evaluation record must be maintained and only officers who are named on the evaluation record may take part in the evaluation process. At least 2 officers must evaluate the tenders.
- 14.3** The identified officers must decide how to evaluate tenders before they are invited and set out the evaluation method in the tender documents. The same standards must be used to evaluate all the tenders.
- 14.4** If it is necessary to discuss a particular tender with an individual contractor or supplier to make sure what they are offering is understood, the discussions must not add anything to the tender.
- 14.5** If there is a simple mistake or arithmetical error in a bid, contact with the relevant contractor or supplier can be made to obtain the contractor's or supplier's amendment in writing.
- 14.6** Any additional information that may be submitted by a tenderer that was not submitted by the tender closing time and date can only be accepted after consultation with the Solicitor to the Council.
- 14.7** All detailed discussions about important or complicated points must be recorded. The officers taking part and the contractor or supplier must sign the record and it must be retained on file.
- 14.8** An evaluation report for the Director should be prepared advising upon the outcome of the evaluation process and details of the tenders evaluated.
- 14.9** During the evaluation stage details about the number of tenders received, where those tenders came from or what is in them will remain confidential. However, financial, technical or legal advice can be sought to assist with the evaluation.
- 14.10** Before entering into a contract with any firm, the appropriate Director must:

- (a) be satisfied about the technical capability of such firm;
- (b) ensure that all evaluation criteria have been determined in advance; and
- (c) ensure that these Contract Procedure Rules have been complied with.

15. Bonds and Parent Company Guarantees

15.1 Directors must consult the Solicitor to the Council and the Executive Director with s.151 responsibilities:

- (a) about whether a Parent Company Guarantee is required when a contractor is a subsidiary of a parent company, and:
 - (i) the total value of the contract exceeds £50,000; or
 - (ii) award is based on evaluation of the parent company; or
 - (iii) there is some concern about the stability of the contractor.
- (b) About whether a bond is needed:
 - (i) where the total value of the contract exceeds £140,000; or
 - (ii) where it is proposed to make staged or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the contractor.

16. Post-Tender Negotiation

16.1 Post-tender negotiation may take place where:

- (a) the tenders received are in excess of the budget provision; or
- (b) the appropriate Director, after consultation with the Solicitor to the Council, considers, from an analysis of the tenders received, that additional financial or other benefits may be obtained for the Council through post-tender negotiation; and
- (c) a clause allowing for negotiations after tenders have been opened was included in the Invitation to Tender.

16.2 Any post-tender negotiation may be undertaken with the tenderer submitting the Preferred Bidder exclusively. However, where any such post-tender negotiation is proposed for other than the tenderer submitting the preferred tender then the opportunity for such post-tender negotiation shall be extended to all those who have submitted tenders.

16.3 Where any post-tender negotiations are appropriate a written record shall be kept of all negotiations, including notes of all meetings and the names of the individuals present, and placed on the contract file.

17. Contract Award

17.1 A tender may be accepted by the appropriate Director, provided that

- (a) the Director notifies award of the contract to:
 - (i) the Solicitor to the Council; and
 - (ii) in the case of a tender which falls above EU Procurement Levels, the Executive.

In the form provided at Appendix “A”:

- (b) confirmation of receipt of the form provided at Appendix “A” has been returned to the Director by the Solicitor to the Council, and where required the Executive in accordance with (a) above;
- (c) where the contract value exceeds EU Procurement Levels the contract is not awarded until the time period identified in paragraph 11.4 (table 2) has elapsed; and
- (d) the identity of any tenderer other than the tenderer submitting the tender accepted shall not be disclosed to any other tenderer.

17.2 The acceptance of a tender shall be notified in writing to the tenderer submitting the successful tender by the appropriate Director.

17.3 In any case where any acceptable tenders are equal in amount, the tender of a local tenderer shall be accepted which shall be taken to mean any company, firm, partnership, or other business whose registered office, principal or other place of business is situated within the locality.

18. Starting the Contract

18.1 Unless the Solicitor to the Council agrees, no contractor or supplier will start a contract until they have met the following conditions:

- (a) there are completed formal contract documents in place that the Solicitor to the Council is satisfied with;
- (b) the contractor or supplier has provided proof that they are adequately insured;
- (c) where it is relevant, the Solicitor to the Council has received a performance bond, parent company guarantee or other security;
- (d) if it is necessary under the contract that the contractor or supplier has a health and safety plan that the Council’s Health and Safety

Officer has agreed and approved in writing;

- (e) the Solicitor to the Council in conjunction with a Director is satisfied that relevant matters relating to TUPE have been settled; and
- (f) any other relevant matters (e.g. relating to the use of land) have been completed or settled to the satisfaction of the Solicitor to the Council.

19. Municipal Charging or Trading

- (a) nothing within these CPRs restricts the ability of Directors to charge for the provision of goods or services where a legal power exists enabling them so to do; and
- (b) where the Council establishes a trading company the rules formulated by that company will govern the contractual arrangements relating to the trading activities of that company.

20. Exemptions to Contract Procedure Rules

20.1 Exemption from CPRs is only permitted where:

- (a) EU Procurement Rules prevent the use of an exemption, and
- (b) one of the following applies:
 - (i) the consent in writing to use one of the exemptions referred to under paragraph 20.2 has been obtained; or
 - (ii) Executive agreement in accordance with paragraph 1.2 has been obtained; or
 - (iii) in a case of urgency, the consent of any Executive Member with delegated powers has been obtained by a formal decision notice.

20.2 Exemptions for which the consent in writing of the Solicitor to the Council after consultation with the Executive Director with s.151 responsibilities can be given:

- (a) purchases at public auction;
- (b) the procurement of proprietary or patented goods or materials or services which in the opinion of the appropriate Director are obtainable only from one contractor, and where no reasonably satisfactory alternative is available;
- (c) the purchase of goods or materials, the execution of works or supply of services for which the Director considers that no genuine competition can be obtained;

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- (d) the purchase of a named product required to be compatible with an existing installation;
- (e) the execution of work or supply of services of a specialised nature which in the opinion of the appropriate Director are carried out by only one contractor and where no reasonably satisfactory alternative is available;
- (f) the instruction of, advice from, or service provided by Counsel;
- (g) the purchase of a work of art or museum specimen;
- (h) purchases, works and services required by the appropriate Director so urgently as not to permit compliance with the requirements of competition;
- (i) procurements where the number of quotations or tenders received are below that required by these Contract Procedure Rules.

20.3 An exemption is not required to procure the purchase of goods or materials, the execution of works or supply of services, where a Framework Arrangement or contract is let through or on behalf of a public body, consortium, association or similar body provided that tenders or quotations are invited and contracts placed in accordance with procedures which are equivalent to these Contract Procedure Rules and also comply with any national or EU legislation.

20.4 The Solicitor to the Council in consultation with the Executive Director with s.151 responsibilities, may only grant an exemption in relation to a contract with a value which exceeds £50,000 after consultation with the appropriate Executive Member.

20.5 In each case a note of the action taken and the reasons therefore must be recorded on the contract file for audit purposes.

21. Electronic Commerce

21.1 Nothing in these Rules shall prevent:

- (a) invitations to quote or tender being issued by use of the internet. A Director (in consultation with the Solicitor to the Council) may publish invitation to tender notices on appropriate internet web sites in substitution for publication in newspapers or trade journals; and
- (b) receipt of quotations or tenders by use of the internet provided the Director and the Solicitor to the Council have agreed that suitable privacy and security mechanisms are in place for the receipt and opening of such submissions.

FORM OF CONTRACT

22 Documentation Form of Contract

22.1 Every contract shall be in writing and:

- (a) where the contract value is no greater than £50,000 the contract shall be approved and signed in accordance with paragraph 9.4 unless:
 - (i) the contract is in a standard form previously approved by the Solicitor to the Council; or
 - (ii) is to be dealt with on an official order in accordance with paragraphs 9.4 and 9.5 in which case it may be signed by the appropriate Director.
- (b) where the contract value is £50,001 or more it shall be approved by the Solicitor to the Council and signed or sealed, as appropriate, in accordance with paragraphs 1.5 and 1.6.

23. Extensions to Existing Contracts

23.1 No extension to a contract is permitted which would have the effect of taking the total value of a contract which was not let in accordance with EU Procurement regulations above EU thresholds.

23.2 If the original contract was let in accordance with EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice.

23.3 Subject to paragraphs 23.1 and 23.2 a Director may, with the consent of the Solicitor to the Council, extend a contract subject to the extension being within the scope of the original scheme. All such decisions shall be maintained on the contract file and a copy sent to the Corporate Procurement Officer.

23.4 Extensions to capital project contracts that fall outside the scope of the original scheme require the approval of a Chief Officer, and must comply with the provisions of the Financial Procedure Rules.

23.5 If the contract was awarded as a framework contract, the total contract period, including any extensions shall not exceed 4 years.

24. Signing and Sealing

24.1 All contracts presented for signing and sealing shall be accompanied by a statement of the Council's authority to enter into the contract or seal the document. The statement shall specify the appropriate resolution giving the authority or in the case of an authority delegated to an officer shall specify the precise delegated authority being exercised.

25. Contract Conditions

25.1 Every contract for goods and/or services shall state:

- (a) the goods or services to be provided;
- (b) the parties to the contract, including any guarantor;
- (c) the price and any discounts, or the method by which prices and discounts are to be calculated, and the method and timing of payments;
- (d) the time within which the contract is to be carried out; and
- (e) such other terms and conditions as may be agreed between the parties;

25.2 Unless the Solicitor to the Council considers it unnecessary or impractical the contract shall also state:

- (a) that the contractor will not assign the contract without written consent of the supervising officer/contract administrator;
- (b) that the contractor will pay liquidated damages (where these can be assessed and ascertained) or other damages to the Council should the terms of the contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable;
- (c) the contractor must provide evidence of adequate insurance to cover both Public and Employers' liability, appropriate indemnity provisions and any performance bond or parent company guarantee required;
- (d) that the contractor shall not unlawfully discriminate within the meaning of the Race Relations Act 1976 or any comparable statutory provision relating to discrimination in employment, and shall ensure that all employees, agents and sub-contractors do not unlawfully discriminate, and shall comply with all relevant codes of practice issued by the Commission for Racial Equality or comparable body and, so far as practicable, operate an equal opportunities policy which complies with the practical guidance and recommendations contained in such codes of practice;
- (e) that the contractor shall adopt safe methods of work and comply with all other requirements of Health and Safety at Work legislation in order to protect the health and safety of its personnel and to the extent applicable the personnel of the Council and all other persons;
- (f) that the contractor shall comply with Data Protection legislation and indemnify the Council in respect of the use, disclosure or transfer of personal data by the contractor, its employees, agents and Sub-

Contractors;

- (g) that the Council may cancel the contract and recover any loss if the contractor, its employees, agents and Sub-Contractors offer any inducement or reward relating to the contract (even if the contractor does not know what has been done) or commit any offence under the Prevention from Corruption Acts 1889 to 1916 or section 117(2) of the Local Government Act 1972;
- (h) where under any contract, one or more sums of money are to be received by the Council, the contractor responsible for the payment of such sum or sums must pay interest at the rate stated in the contract from the date when payment is due until the date when payment is received;
- (i) whenever, under the contract any sum of money is recoverable from or payable by the contractor, this sum may be deducted from any sum due or which at any time may become due to the contractor under this or any other contract with the Council;
- (j) the contractor must not sub-contract the works or any part of the works, without the prior written consent of the appropriate Director, no sub-letting by the contractor will relieve the contractor of its liability to the Council for the proper performance of the contract and the contractor remains responsible to the Council for the proper performance and observance by all sub-contractors of all the contractor's obligations; and
- (k) the principles of Best Value required and any other terms and conditions specified by the Solicitor to the Council (who has general powers to set standard and special contract conditions).

25.3 Any standard terms and conditions of contract submitted by contractors shall not be accepted without advice from the Solicitor to the Council.

SUB-CONTRACTORS

26. Nominated Sub-Contractors

26.1 These CPRs shall apply where a sub-contractor or supplier is to be nominated by a main contractor.

27. Post Contract Monitoring and Evaluation

27.1 During the life of the contract the contract officer (see Rule 3 above) must monitor in respect of:

- (a) performance;
- (b) compliance with specification and contract;
- (c) cost;

- (d) any Best Value requirements; and
- (e) user satisfaction and risk management.

27.2 A contract must not be terminated, assigned, varied or novated without first obtaining advice from the Solicitor to the Council and any requisite authorisation.

27.3 Where the total value of the contract exceeds £140,000, the contract officer must make a written report to the relevant Director evaluating the extent to which the purchasing need and the contract objectives were met by the contract. This should be undertaken when the contract is completed.

28. Definition and Interpretation

28.1 In these CPRs the following definitions apply unless the context requires otherwise:

CPR(s)	Contract Procedure Rules.
Call Off	goods, services or works purchased from time to time under a Framework Contract or Arrangement.
Committee	any committee or sub committee of the Council.
Chair	a Chair of a Committee or the Vice-Chair of a Committee if the Chair is absent or unavailable.
Contract	any agreement for the supply of goods, materials or services, the execution of works or the awarding of concessions.
Contract File	a record of all matters relating to a Contract.
Contractor	a supplier of goods, materials, works, services or concessions.
EU contract	a contract covered by the Public Supply, Works or Services Contracts Regulations.
Executive	includes the Leader and individual Executive Members if the Executive delegates the relevant function to them.
Framework Contract	a general term for agreements with suppliers which sets out terms and conditions under which specific purchases (“call-offs”) can be made throughout the term of the agreement. Such agreements can create an obligation to make call-offs (a framework agreement) or set out the terms and conditions for subsequent call-offs but place no obligations, in themselves, on the procurers to buy anything (a framework arrangement).

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Measured Term	Measured Term Contract (MTC) is an arrangement whereby a contractor undertakes to carry out a series of works orders, over a period of years (defined).
Goods and/or services	includes goods or materials to be supplied and/or works or services (including concessions) to be carried out or performed.
Hard Copy Tender	A tender document provided to the Council in paper form.
Invitation to Quote	Invitation to quote documents in the form required by contract procedure rules.
Invitation to Tender	Invitation to tender documents in the form required by contract procedure rules.
Nominated Suppliers and Preferred bidder	Those persons specified in a main contract for the discharge of any part of that contract. The tenderer submitting the tender that scored highest under the adopted criteria for evaluating tenders.
PQQ	Pre Qualification Questionnaire
Sub-contractors Officer	The officer designated by a Director to deal with the contract in question.
OJEU	The Official Journal of the European Union.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Tenderer	any person who is invited to submit a tender for the supply of goods, materials, works, services or concessions to the Council.
Total Value	the whole of the value or estimated value in money or equivalent value for a single purchase or disposal, whether or not it comprises several lots or stages. The total value shall be calculated as follows: (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period; (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;

- (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48;
- (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result;
- (e) for nominated suppliers and sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor; and
- (f) where an in-house service provider is involved, by taking into account redundancy and similar/associated costs.

Year a year commencing on the 1 April and finishing on the following 31 March.

28.2 References to “lowest tender” or “lowest tenderer” means “highest tender” or “highest tenderer” where payment is to be received by the Council.

NOTIFICATION OF INTENTION TO AWARD A CONTRACT (CPR 17)

CONTRACT:

SERVICE RESPONSIBLE:

Nature of Contract:

Value of contract:	

DATE OF AUTHORISATION TO ENTER CONTRACT AND REPORT REFERENCE
(WHERE APPLICABLE):

RECEIVED BY THE SOLICITOR TO THE COUNCIL
DATE OF RECEIPT:

RECEIVED BY EXECUTIVE MEMBER (ITEMS WHICH HAVE A VALUE ABOVE EU
PROCUREMENT LIMITS ONLY)
DATE OF RECEIPT:

*ONCE THE ABOVE RECEIPTS HAVE BEEN OBTAINED, THE CONTRACT MAY
BE AWARDED.*

COMPLETED FORMS TO BE RETURNED TO LEGAL SERVICES

PETITIONS PROCEDURE RULES

PETITIONS

Selby District Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Set out below is how the authority will respond to petitions.

The Petition Scheme includes both written and electronic petitioning options available to the community.

1. What is a petition?

1.1 A petition is a formal written request signed by many people appealing in this case to a local authority for some action in respect of a particular cause.

1.2 The Council treat as a petition any communication which is signed by or sent to us on behalf of a number of people who live, work or study in the Selby District.

1.3 You can submit and sign a petition on the Council's website and further guidance is available at www.selby.gov.uk.

1.4 An e-petition is the same as a written petition except that it includes lists of names and addresses rather than actual signatures and is delivered to the Council through a designated electronic e-petition system.

2. What should a petition contain?

A petition should include –

- 2.1**
- (a) a clear statement of your concerns and
 - (b) what you want the authority to do.

This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, the Council will ask the petition organiser whether s/he would like the petition redirecting to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, the petition will be returned to the petition organiser with an explanation for that decision;

2.2 The name and contact details of the "petition-organiser" or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address;

- 2.3** The names of at least 100 petitioners (which can include the petition organiser) who live, work or study in the Selby District. Where the petition is in paper form, this should include a name, address and actual signature from each petitioner. Where the petition is in electronic form, a list of the names and addresses of the petitioners will suffice. If you want your petition to be debated at a meeting of the Council (“A Petition for Debate”), or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report (“A Petition to hold an Officer to Account”), your petition will need to contain a higher number of signatories or petitioners (see below);
- 2.4** If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that the Council can ensure that your petition is considered along with original matter.

3. Who should you send a petition to?

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

The Council have nominated a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the authority.

Please address petitions to –

The Petitions Officer
Democratic Services
Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT

The Petitions Officer will ensure that your petition is acknowledged (to the petition Organiser) and entered on the authority’s petitions website and that the website is regularly up-dated with information on the progress of your petition. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above address or by telephone at 01757 705101.

4. Types of Petition – How will the Council respond to Petitions?

The response to a petition will depend on what a petition asks for and how many people have signed it, but in general terms may include one or more of the following:

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter

- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition
- Referring the petition for consideration by one of the Council's Overview and Scrutiny
- Committees. The Overview and Scrutiny Committees are responsible for scrutinising the work of the Council and for holding the Council's decision-makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. There are five different types of petition, as set out below. How the Council deal with a petition depends on which type of petition you submit.

4.1 Ordinary Petitions

These are petitions which do not come within any of the following specific types and should contain at least 100 signatures or petitioners. Please note that;

- (i) petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Standards Assessment Sub-Committee, rather than considered under this Petitions Procedure;
- (ii) if the petition relates to a planning or licensing application or a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply rather than the Petitions Procedure. Further information on all these procedures and how you can express your views is available on the Council's website.

4.2 Consultation Petitions

These are petitions in response to an invitation from the authority for representations on a particular proposal or application. Consultation petitions which are received by the response date in the consultation invitation will be reported to the Officer or Councillors which will be taking the decision on the application or proposal.

4.3 Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

4.4 Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 1,230¹ signatories or petitioners (this is reduced to 1000 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area).

4.5 Petitions to Hold an Officer to Account

If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 820 signatories or petitioners (this is reduced to 500 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The authority has determined that such petitions must relate to a Chief Officer or Director of the authority. Please note that where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Deputy Chief Executive in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.²

5. The Petitions Website

5.1 The authority will maintain a petitions website. When a petition is received, within 5 clear working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

5.2 As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within 5 clear working days of that consideration.

5.3 Petitions are presented on the petitions website in the order in which they are received, but the website can be searched for key-words to identify all petitions relating to a particular topic. All petitions are kept on the website for 2 years from the date of receipt.

¹ The number of signatories or petitioners required for Petitions for Debate, and for Petitions to Hold and Officer to Account have been set by the authority to try to ensure that matters of genuine concern can be brought to the authority's attention. These requirements will be reviewed periodically in the light of the number of petitions received, to ensure that the requirements are not excessive.

² Note that the Local Democracy, Economic Development and Construction Act 2009 makes no provision for handling petitions which raise issues of officer or member misconduct or officer competence, but in practice such petitions cannot be handled under the Petitions Procedure and must be handled under the procedures appropriate to such matters.

6. The role of Ward Councillors

- 6.1** When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.
- 6.2** When the petition is reported to the person or body within the authority who can take a decision on the matter to which it relates, the relevant Ward Councillor will be invited to attend and to address the decision-taker for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.

7. What happens when a petition is received?

- 7.1** Within 2 clear working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.
- 7.2** In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant officer to take appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.
- 7.3** Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will within 5 clear working days of receipt of the petition provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 3 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.
- 7.4** Whilst the Council is committed to dealing with petitions promptly, a petition will normally need to be received at least 10 clear working days before a relevant meeting if it is to be reported to that meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary for the Petitions Officer to decide that the petition will be held over until the following meeting of the relevant body.
- 7.5** At the same time as responding to the petition organiser, the Petitions Officer will notify party groups spokespersons and Ward Councillors of receipt of the petition.
- 7.6** Within 5 clear working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

- 7.7** At each stage of the consideration of the petition, within 5 clear working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.
- 7.8** The process after this stage differs for the various types of petitions – see below.
- 8. What happens to a Consultation Petition?**
- 8.1** Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application.
- 8.2** The petition will be reported to the person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees.
- 9. What happens to a Statutory Petition?**
- 9.1** Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, the Council will report it to the next available meeting of the Council in accordance with the statutory requirements.
- 10. What happens to Petitions for Debate?**
- 10.1** Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.
- 10.2** As set out below, the petition organiser will be invited to address the meeting for up to 3 minutes on the subject of the petition.
- 11. What happens to a Petition to Hold an Officer to Account?**
- 11.1** Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.
- 11.2** In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.

11.3 At the meeting, the Chairman will invite the petition organiser to address the Committee for a maximum of 3 minutes on the issue, and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chairman may invite the petition organiser to suggest questions for him/her to put to the officer.

12. What happens to an Ordinary Petition?

12.1 The Petitions Officer will arrange for each Ordinary petition to be reported to the next convenient meeting of the Council or of a Committee (including the Executive) which has the power to take a decision on the matter.

13. At the meeting, when the matter to which the petition relates is considered:

13.1 Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chairman at the meeting determines otherwise. A maximum of 15 minutes will be allowed at each meeting for considering such petitions and any petitions not reached in the time allowed will be referred to the relevant Committee for consideration or deferred until the next meeting.

13.2 Any petitions relevant to particular items of business will be taken together with that item of business, in the normal order of business.

13.3 Petition organisers will need to inform the Petitions Officer if they are running both a petition and e-petition in order that they can be presented together.

13.4 The Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 3 minutes. The Chairman may then ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address him/her on the matter for up to 3 minutes (each). The Chairman will then invite a relevant officer(s) to advise the meeting, after which the matter will be open for debate among members of the decision-making body. The Committee will then make a decision. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of Council, or a Committee of the Council for determination. The Petition Organiser will receive written confirmation of this decision.

13.5 At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

14. Appeal to an Overview and Scrutiny Committee

14.1 If the petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to

appeal within 20 clear working days of being notified of the authority's decision on the petition. It is helpful to everyone, and can improve the prospects for a review if the Petition Organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

- 14.2** Within 5 clear working days of receipt of intention to appeal, the Petitions Officer will determine which is the most appropriate Overview and Scrutiny Committee meeting date and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Committee and will invite the petition organiser to attend the meeting and to address the Committee for up to 3 minutes on why s/he considers that the authority's decision on the petition is inadequate.
- 14.3** At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the Council's response was insufficient.
- 14.4** The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine it has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council and arranging for the matter to be considered at a meeting of the Full Council. Once the appeal has been considered the Petition Organiser will be informed of the results within 5 clear working days.
- 15. The role of the Petition Organiser**
- 15.1** The petition organiser will receive acknowledgement of receipt of the petition within 2 clear working days of its receipt by the authority.
- 15.2** Where the petition is not accepted for consideration (see Paragraph 16 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.
- 15.3** Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 5 clear working days of receipt by the authority as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.
- 15.4** The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.
- 15.5** The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 clear working days of such decision.

15.6 The petition organiser may notify the Petitions Officer of his/her intention to appeal to an Overview and Scrutiny Committee against the decision of the authority relating to the petition within 20 clear working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee for up to 3 minutes as to why he/she considers that the authority's decision on the petition was inadequate.

16. Petitions which will not be reported

16.1 Duplicate Petitions - Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

16.2 Repeat Petitions - Where a petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.

16.3 Rejected Petitions - Petitions will not be reported if in the opinion of the Petitions Officer:

- it does not follow the guidelines above
- it is rude, inflammatory, abusive, offensive, defamatory, scurrilous or time-wasting,
- it is defamatory, frivolous, vexatious, discriminatory or otherwise offensive, or contains false statement
- it is too similar to a recent petition received by the Council within 6 months
- it discloses confidential or exempt information, including that protected by a court order or Government department
- discloses material that is considered to be commercially sensitive.
- it contains advertising statements
- it makes criminal accusations
- it refers to an issue which is currently subject to a formal Council complaint, Local Ombudsman complaint or any other legal proceedings
- it does not relate to something which is the responsibility of the authority, or over which the authority has some influence.

CODE OF CONDUCT FOR COUNCILLORS

1. Introduction

A new local Code of Conduct for Councillors came into force on 1 July 2012.

The Council resolved to adopt the Code at its meeting on 26 June 2012.

2. The Code

The full text of the Code is set out below.

CODE OF CONDUCT FOR SELBY DISTRICT COUNCIL

Selby District Council (“the Council”) adopted this code of conduct on 26 June 2012 to come into force on 1 July 2012. The Code sets out the conduct that is expected of you when acting as a Selby District Councillor or when you are appointed as a co-opted member on any Committee of the Council.

The Code of Conduct is based upon the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

In undertaking your duties as a Councillor

1. You must not behave in a way that a reasonable person would regard as disrespectful to them.
2. You must not bully or intimidate or attempt to bully or intimidate any person.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not bring the Council, or your office as a Councillor, into disrepute.
5. You must not do anything which may cause the Council to breach any equality enactment
6. You must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person any advantage or disadvantage.

7. You must always use the resources of the Council in accordance with the Council's reasonable requirements and never use those resources for political purposes.
8. If, because of your membership of the Council, you are in receipt of or are offered any gift or hospitality with an estimated value of £50 or more you must disclose this to the Monitoring Officer; and you must decline to accept any such gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a member of the Council.
9. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
10. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - You have the consent of a person authorised to give it; or
 - You are required by law to do so; or
 - The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
11. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking the scrutiny process.
12. The Council's Monitoring Officer will maintain a Register of Interests for Councillors and Co-opted members. Subject to paragraph 16, you must register your interests in the Council's Register of Interests. In this code of conduct "your interests" means any disclosable pecuniary interest as defined in paragraph 14 below and also those other interests set out in paragraph 15, where those interests are held in either case
 - by you, or
 - to your knowledge, by your spouse or civil partner, by a person with whom you are living as husband and wife, or by a person with whom you are living as if you were civil partners.
13. You must register information regarding your interests by giving written notice to the Monitoring Officer, who maintains the Register; and you must give such notice:
 - before the end of 28 days beginning with the day of your appointment as a member of the Council; and/or
 - before the end of 28 days beginning with the date of any change in your interests.

14. The following are disclosable pecuniary interests referred to within paragraph 12:
- Your employment, office, trade, profession or vocation carried on for profit or gain;
 - Any payment or provision of any other financial benefit (other than from the Council) made or provided in respect of any expenses incurred by you in carrying out your duties as a Councillor or co-opted member or towards your election expenses including any payment or financial benefit from a Trades Union;
 - Any contract which is made between you (or a body in which you have a beneficial interest) and the Council for the provision of goods or services or the exchange of works and which has not been fully discharged;
 - Any beneficial interest which you have in land which is within the Council's area
 - Any licence you hold either alone or jointly with others to occupy land in the Council's area for a month or longer;
 - Any tenancies where you know that the Council is the landlord and that the tenant is a body in which you have a beneficial interest
 - Any beneficial interest in securities in a body where you know that body has a place of business in the Council's area and either
 1. the total nominal value of the securities exceeds £25,000 or one hundredth of the total share capital or
 2. if the share capital of the body is more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital in that class.
15. The following are the other interests referred to within paragraph 12:
- Your membership of any body to which you are appointed by the Council;
 - Your membership of any public body;
 - Your membership of any charitable body;
 - Your membership of any political party, trade union, or other body where one of the principal purposes of that body is to influence public opinion or policy;
16. Where you consider that disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violence or intimidation, you should tell the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the register to the effect that you have a registerable interest, details of which are withheld under Section 32 of the Localism Act 2011.
17. Where you attend a meeting of the Council, or of a Committee of the Council, and you are, or ought reasonably to be, aware that any of your interests are relevant to an item of business which is being considered, then unless the interest is one which has been registered under paragraph

- 12, you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.
18. Where you attend a meeting of the Council, or of a Committee of the Council, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 19 to a greater extent than the majority of inhabitants of Selby District, then you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.
19. The persons referred to in paragraph 18 are:
- (a) a member of your family;
 - (b) any person with whom you have a close association;
 - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.
20. You must comply with the Procedure Rule adopted by the Council which requires Councillors to leave the room and take no part during that part of any meeting at which a matter in which you have a disclosable pecuniary interest is being discussed.
21. You may make a written request to the Monitoring Officer seeking a dispensation from the rules regarding interests and the Monitoring Officer may agree to grant a dispensation in the following circumstances:-
- 1. Where so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”.
 - 2. Where, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
 - 3. Where the dispensation is in the interests of persons living in the Council’s area;
 - 4. Where, without a dispensation, no member of the Executive would be able to participate in a matter before the executive; or
 - 5. Where the Monitoring Officer considers that it is otherwise appropriate to grant a dispensation.

PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

1. Introduction

- (a) The purpose of this protocol is to guide councillors and officers of the Council in their relations with one another.
- (b) Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It tries to offer guidance on some of the issues that most commonly arise which may also serve as a guide to dealing with other issues.
- (c) This protocol reflects the principles underlying the rules of conduct which apply to councillors and officers. The purposes of those rules and this protocol are to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.

2. Respect and courtesy

- (a) For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between councillors and officers. Councillors and officers should each remember their respective obligations to enhance the Council's reputation and protect its reputation and to do what they can to avoid criticism of other councillors, or other officers, in public.

3. Undue pressure

- (a) It is important that, in any dealings between councillors and officers, neither should seek to take unfair advantage of their position.
- (b) In their dealings with officers (and especially junior employees), councillors need to be aware that it is easy for officers to be overawed, intimidated or feel at a disadvantage. Such feelings can be intensified where councillors hold official, senior and/or political office.
- (c) A councillor should not apply undue pressure on an officer either to do anything that he or she is not empowered to do, or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- (d) Similarly, an officer must neither seek to use influence on an individual councillor to make a decision in his or her personal favour, nor raise personal matters whether or not it is to do with their job, nor make claims or allegations about other officers. The Council has formal procedures for consultation, grievance and discipline. The one

exception to this rule is the right of staff to report possible wrongdoing under the Council's 'Whistle Blowing' Policy.

4. Familiarity

- (a) Close personal familiarity between individual councillors and employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- (b) Such familiarity could also cause embarrassment to other councillors and/or other employees and even give rise to suspicions of favouritism.
- (c) For the above reasons, close personal familiarity must be avoided.

5. Redress

- (a) If a councillor considers that he or she has not been treated with proper respect or courtesy, he or she should raise it with the appropriate Director without delay if it is not possible to resolve it through direct discussion. If the issue still remains unresolved, appropriate disciplinary action may be taken against an employee in accordance with the Council's normal procedures.
- (b) If an employee feels the same way about a councillor and a direct discussion is impractical, inappropriate or fails to resolve the matter, he or she should raise the matter with their Director without delay. The Director will inform the Chief Executive of the matter as soon as possible.
- (c) The Director will take such action as is appropriate following discussion with the Chief Executive. This action is likely to involve approaching the individual councillor and/or Party Group Leader about the issue. Feedback should be given to the employee on the outcome of these discussions.

6. Provision of information/advice

- (a) Any councillor is entitled to apply to any Chief Officer or Director for information and/or advice required in connection with his/her work as a councillor and, provided that the information sought does not breach the law and associated statutory regulations, it is the duty of the officer approached to give that information and/or advice, within the limits of available resources and to the best of his/her ability. Councillors for their part will seek to act reasonably in the number and content of the applications they make.
- (b) If any councillor asks for specific information relating to the work of the

Executive or a particular committee or sub-committee and it appears possible or likely that at a subsequent meeting issues will be raised or questions asked on the basis of the information provided, then the appropriate Executive Member or committee Chair shall be advised of the information sought and given.

- (c) An Executive Member or the Chair of any committee or sub-committee is entitled to apply privately to a Chief Officer and/or Director for additional background information on, or for advice on, possible alternative courses of action in respect of any particular problem or policy of concern.
- (d) The Leader of each Political Group, recognised as such by the Council, is entitled for his/her own purposes as a Leader, to apply to a Chief Officer and/or Director for general background information on, or for further information in respect of, an item of business coming before any Council, Executive or committee/sub-committee meeting. The appropriate Executive Member or Chair shall be advised of any new/additional information which has been supplied by the Chief Officer and/or Director.
- (e) Technical/procedural information may be supplied, in confidence, to any Group Leader, to enable a budget to be presented by that Group which is in a legally correct form.
- (f) Information requested by a councillor to address a constituency issue may be supplied by officers to that councillor in confidence.
- (g) Any councillor may apply privately to a Chief Officer and/or Director for advice, in confidence, on information supplied by that councillor to the officer.
- (h) Requests for information and advice under this section should normally be directed to the appropriate Chief Officer and/or Director in the first instance.

7. General principles

- (a) It is obviously important, though, for there to be regular contact between Chief Officers and/or Directors, senior employees and the Leaders of Political Groups on matters affecting the Council, and between Directors, other senior employees and Chairs on matters affecting their respective committee or sub-committee.
- (b) Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Officer and/or Director and not to individual councillors whatever office they might hold.

8. Support services to councillors and party groups

- (a) The only basis on which the Council can lawfully provide support services (e.g. stationery, printing, photocopying, transport, etc.) to councillors is to assist them in discharging their role as councillors. Such support services must therefore only be used on Council business. They should never be used in connection with Party, Political or campaigning activity or for private purposes.

9. Correspondence

- (a) Official letters entering into formal commitments on behalf of the Council must only be sent out over the name of the appropriately authorised officer, rather than over the name of a councillor.
- (b) It may however, be appropriate in certain circumstances for a letter to appear over the name of a councillor, for example in response to a letter of complaint sent direct to that councillor but this should be the exception rather than the norm and should only be done following consultation with the appropriate Chief Officer and/or Director.

10. Conclusion

- (a) It is hoped that, by following good practice and securing sensible and practical working relationships between councillors and employees, we can retain the Council's reputation as an Excellent Authority.

EMPLOYEES' CODE OF CONDUCT

1. Standards

- (a) Our customers, the general public, are entitled to expect the highest standards of conduct from us.
- (b) The aim of this Code is to tell you about the standards which are expected and to help you avoid any misunderstanding or criticism.
- (c) We cannot cover everything in this Code. At work we must all act professionally. Time outside work is your own concern but you should avoid placing yourself in a position where your work and private interests conflict or bringing yourself or the Council into disrepute.
- (d) In some posts you should also be aware of and abide by regulations, for example Financial and Contract Procedure Rules.
- (e) Employees must observe the Council's Code of Practice on Corporate Governance.

In these circumstances your line manager will explain and refer you to the appropriate regulations or Council Policies.

2. Disclosure

- (a) It is generally accepted that open government is best. The law requires that certain types of information must be available to councillors, Auditors, Government Departments, service users and the public. Employees should make themselves aware of which information they are authorised to release and to whom.
- (b) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

3. Political neutrality

- (a) Employees serve the Council as a whole. It follows they must serve all councillors and not just those of the controlling group and must ensure that the individual rights of all councillors are respected.
- (b) Where employees are required to advise political groups they must do so in ways which do not compromise their political neutrality. Both

employees and councillors should be aware of this requirement.

- (c) Employees must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- (d) The political activities of certain post-holders are restricted due to the seniority or political sensitivity of the post. Details of these restrictions are incorporated into individual contracts of employment. For details see paragraph 17 of this Code.

4. Relationships

- (a) Councillors

Employees are responsible to the Council through its Chief Officers and Directors. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should, therefore, be avoided.

- (b) Local Community and Service Users

Employees should always remember their responsibilities to the community of Selby District and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the Council.

- (c) Contractors

All relationships of a business or private nature with external contractors or potential contractors should be made known to the appropriate Chief Officer or Director. Orders and contracts must be awarded on merit by fair competition against other tenders and no special favour should be shown to businesses run by, for example friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- (d) Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate Chief Officer or Director.

5. Appointments and other employment matters

- (a) As set out in the Council's policy for recruitment and selection, employees involved in appointments should ensure that these are

made on the basis of merit. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

- (b) Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustment for any other employee who is a relative, partner etc.

6 Outside commitments

- (a) Employees' off-duty hours are their own concern but they should not subordinate their duty to their private interests or put themselves in the position where their duty and private interests conflict.
- (b) Employees graded above Band 2C may not engage in any other business or take up any other additional appointment without the express consent of the Chief Executive. Such consent is obtained through formal application to the appropriate Director.
- (c) No outside work of any sort should be undertaken in the office and the use of facilities (word processors, telephones etc) is forbidden.
- (d) Employees should be aware that all literary, dramatic or artistic work (including (as an example) but not limited to documents, computer programs, photographs, drawings, recordings or graphic work) which is produced by the employee in the course of their employment with the Council is the copyright of the Council in accordance with S11(2) of the Copyright Design and Patents Act 1988.

7 Private use of services of firms dealing with the Council

- (a) You should be cautious when using the services of firms you know have dealings with the Council. You should ensure that the goods or services bought from such firms are at a price readily available to the general public.
- (b) If you think that any offer of preferential terms is designed to promote a firm's interest, you should not deal with the firm.
- (c) You should not use your position with the Council to obtain a discount. However you may purchase goods at discount terms under a scheme or arrangement which applies to, for example, your trade union.
- (d) This is a difficult and sensitive area. Please try to avoid offending anyone and if necessary, explain the Council's policy.
- (e) If you have any problems or need any help speak to your line manager.

8. Personal interests

- (a) Employees must declare to a Chief Officer or their Director any non-financial interests that they consider could bring about conflict with the Council's interests (a member of a pressure group potentially opposed to the Council's work).
- (b) Employees must declare to a Chief Officer or their Director any financial interests which could conflict with the Council's interests.
- (c) Employees should declare to the Council, through the Chief Executive, membership of any secret societies. The definition of "secret society" is as follows:

Any lodge, chapter, society, trust or regular gathering or meeting which:

- is not open to members of the public who are not members of that lodge, chapter, society or trust;
- includes in the grant of membership a requirement on the part of the member to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, trust, gathering or meeting and;
- includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

Employees should notify the Chief Executive in writing of such membership.

9. Equality issues

- (a) Employees should apply the provisions of the Council's equal opportunities policies in all activities. All members of the local community, customers and other employees have a right to be treated with fairness and equality.

10. Separation of roles during tendering

- (a) Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both client and contractor responsibility must be aware of the need for accountability and openness.

- (b) Employees in contractor or client roles must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (c) Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- (d) Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts or business run by them or employing them in a senior or relevant managerial capacity.

11. Corruption

- (a) Under the Prevention of Corruption Acts 1906 and 1916, it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
- (b) If you are presented with a gift you should report this immediately to your Director. They will decide in conjunction with a Chief Officer whether the gift should be returned or whether it could be forwarded to some charitable or other deserving cause.

12. Use of financial resources

- (a) Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

13. Gifts and Hospitality

- (a) Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. It should be properly authorised and recorded. The Chief Executive will obtain authority from the Leader of the Council; all other officers will refer to the Chief Executive.
- (b) When hospitality has to be declined, the person who offers the hospitality should be courteously, but firmly, informed of the Council's procedures and standards.

- (c) Employees should not accept significant personal gifts from contractors and outside suppliers, although the employees may use their judgement to accept insignificant items such as pens, diaries etc.
- (d) When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- (e) Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

14. Disclosure of Gifts and Hospitality

- (a) All offers of gifts or hospitality must be recorded in the Register of Hospitality and Gifts held by the Monitoring Officer.

15. Sponsorship

- (a) Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, either by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- (b) Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such a sponsorship in a direct way without there being a full disclosure to a Chief Officer or relevant Director of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means gives support in the community, employees should ensure that impartial advice is given and there is no conflict of interest involved.

16. Appointments

- (a) If you are involved in the recruitment and selection of employees, appointments should be made on the basis of merit and in accordance with the Council's Recruitment and Selection Policy and Procedures obtainable from the Director of Business Services. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with him or her.

- (b) Similarly, you should not be involved in decisions about discipline, promotion or pay adjustments for any employee who is a relative, partner, etc.

17. Politically restricted posts

- (a) Some posts are politically restricted in accordance with the Local Government and Housing Act 1989. This is to prevent particular post-holders from having any active political role either in or outside the work place.
- (b) In practice, this will prevent certain post-holders from standing for office as:
 - Local councillors;
 - Members of Parliament;
 - Members of the European Parliament.
- (c) They are also barred from:
 - canvassing on behalf of a political party or a person who is or seeks to be a candidate;
 - speaking to the public or publishing material that could give the impression that they are advocating support for a political party.
- (d) These restrictions apply to:
 - the Chief Executive;
 - the Deputy Chief Executive
 - the Monitoring Officer;
 - the Section 151 Officer;
 - Directors;
 - any officer exercising delegated powers;
 - officers whose jobs are considered to be politically sensitive.
- (e) “Politically sensitive” is defined as those posts which include:
 - giving advice on a regular basis to, or on behalf of, the Council.

18. Whistleblowing

- (a) The Council’s Whistleblowing Policy provides employees with a mechanism through which they can raise concerns regarding any matter of wrongdoing within the Council. Where an employee has a concern they should in the first instance raise the matter with the relevant line manager. Where this is not appropriate, the provisions

and arrangements of the Whistleblowing Policy should be used.

- (b) It should be noted that all employees have a duty to inform their manager of any legitimate concerns they have over actual or potential wrongdoing within the Council.
- (c) The Public Interest Disclosure Act 1998 provides employment protection for employees who make disclosures to their manager concerning actual or potential wrongdoing. Any disclosure or allegation made maliciously or for personal gain will not be protected and disciplinary action may be taken.

19. Use of IT Equipment/Email and Internet

- (a) Specific guidance on the use of IT equipment, use of email and the internet is contained in policies and procedures available on the Intranet site.
- (b) It must be noted that the use of telephones/cameras whilst at work must be dealt with in a professional and responsible manner. Images of clients or colleagues must not be taken without agreement. This is due to the fact that images can be modified and may then be used for other purposes that are inappropriate.

20. Failure to Adhere to Policy

You must not:

- (a) Use information about work which is confidential, for personal gain or benefit or pass it on to others who might use it in this way.
- (b) Give information to the media unless you are authorised to do so.
- (c) Disclose confidential information to someone else, unless it is a request from an approved source, e.g. Inland Revenue, Department of Social Security and, where authorised, from bank managers or building societies. It is normal practice to ask the person requiring the information to put their request in writing.
- (d) Use advance knowledge of a Council decision, particularly about investment decisions, or proposed developments, to benefit yourself or someone else.

You must :

- (a) Use personal data held by the Council in accordance with the Data Protection Act 1998 (Disclosing Information). For example, the data must be held only for specified and lawful purposes and must not be used or disclosed for any other purposes.

- (b) When dealing with requests under the Freedom of Information Act 2000, follow the Council's procedures.

The sanctions against employees who breach the rules on conduct are serious, including dismissal. Where there is any doubt employees should err on the side of caution in the areas covered in this policy. Any uncertainties about this policy should be directed to a Chief Officer or relevant Director.

THE PLANNING CODE OF CONDUCT

The main points of advice about the conduct expected of Councillors and officers are emphasised in bold italics, like this sentence.

1. INTRODUCTION

1.1 The Local Government Act 2000 introduced a new ethical framework to local government, including a Code of Conduct for Councillors. Previously the Nolan Committee Report on Standards in Public Life (1997) issued advice to local planning authorities to frame Local Codes of Conduct or Good Practice to cover the question of Probity in Planning.³³ This Planning Code complements and expands on the local Code of Conduct for Councillors and is an annex to it. The local Code of Conduct for Councillors is essentially concerned with the conduct of individual councillor's duties, while the Planning Code is concerned with the integrity of the planning system and its procedures. The Code of Practice is based on guidance from, for example, the Nolan Committee, the Local Government Association, the Royal Town Planning Institute, Standards for England, the Audit Commission and others. The Code sets out practices and procedures designed to avoid allegations of malpractice in the operation of the planning system. The aim is to protect the integrity of the planning system as open and fair to all parties.

1.2 The Code will be a consideration in any investigation of maladministration by the Local Government Ombudsman. The Code refers mainly to the actions of a Planning Committee as the main decision-making body, but it applies especially to other forms of decision-making, for example the Executive and Council where planning issues may be discussed. The Code applies to both councillors and officers.

³³ The 2000 Act Code of Conduct was abolished by the Localism Act 2011 which introduced a requirement to adopt a Local Councillor Code of Conduct. Selby District Council adopted a local code on 26 June 2012 to come into effect on 1 July 2012 (see Part 5 of this Constitution)

1.3 In terms of Article 6 of the Human Rights Act 1998, (Right to a Fair Trial), the Code, together with the availability of an appeal procedure will meet the requirements of the Article, ensuring that decisions are properly recorded and supported by adequate reasons. The fundamental basis of the Code is that the planning system operates in the public interest and therefore decisions affecting private and public interests have to be made openly, impartially, with sound judgement and for justifiable reasons.

1.4 In addition, the role of elected councillors on a Planning Committee involves balancing/representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals which give rise to great tensions.

2. THE NEED FOR A CODE

2.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (i.e. it actively invites public opinion before taking decisions) and the legal status of Local Plan/Local Development Frameworks, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision-making.

2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound

judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

3. SCOPE OF THE CODE

3.1 This guidance note sets out the practices which Selby District Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of officers and councillors on planning matters.

3.2 It applies to both councillors and officers who are involved in operating the planning system - it is not, therefore restricted to professional town planners or to councillors in committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

3.3 Both councillors and officers are guided by codes of conduct. It is intended that employees will be subject to a statutory Employees' Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all planning officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The Council also has an Employees Code of Conduct, by which all employees are required to abide. In addition to these Codes, the Council's Rules of Procedure govern the conduct of Council business.

3.4 Whilst this Code, and the others referred to above, attempts to be as clear as possible, ***if in doubt about how the guidance applies in particular circumstances seek advice*** from the Monitoring Officer.

3.5 Appendix 1 contains a list of other guidance on planning which is available from the Council.

3.6 This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all development management matters including applications, planning enforcement matters and also how the Council prepares a Local Plan/Local Development Framework. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contravenors in enforcement cases, and to landowners, developers and objectors involved in Local Plan/Local Development Framework proposals. The guidance applies to planning matters on which a decision will be taken by the Council, but not to planning matters which are the responsibility of other councils or government departments.

4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

4.1 Councillors and officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the District. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual councillors, and it follows that instructions may be given to officers only in ways which comply with the Council's Constitution. Any other system which develops is open to question. A successful relationship between councillors and officers must be based upon mutual trust, respect and an understanding of each other's roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

Therefore:

- **Individual councillors should not give instructions to officers on planning matters;**
- **Officers' actions will follow Council policy and properly constituted decision-making;**
- **Political group meetings should not be used to decide how councillors should vote on applications and enforcement cases and councillors are not mandated on these matters by a political group.**

4.2 The Code of Conduct for Councillors sets out the requirements of councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests (see sections 10 and 11), but also appropriate relationships with other councillors, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to councillors who become involved in making a planning decision is the requirement that he/she:

“must not use or attempt to use your position as a councillor improperly to confer on or secure for himself/herself or any other person, an advantage or disadvantage;”

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

4.4 Officers must always act impartially. The RTPI Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;
- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence; and
- shall not discriminate on grounds of race, sex, sexual orientation, creed, religion, disability or age, and shall seek to eliminate such discrimination by others and to promote equality of opportunity.

These guidelines should apply to all Planning Officers. More detailed guidance and requirements are in the Council's own Employees Code of Conduct. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities of senior staff, such as membership of political parties and serving on another Council.

4.5 Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on councillors in the Code of Conduct for Councillors. Councillors are placed under a requirement by the Code of Conduct for Councillors to:

- not behave disrespectfully
- not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority

4.6 The principles from the Relevant Authorities (General Principles) Order 2001 should guide the conduct of all councillors. The general principles are attached at Appendix 5. In summary:

The actions and conduct of councillors and officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the district as a whole, and should not be improperly influenced by any person, company, group or town/parish council. The key is to demonstrate that each Council and councillor's decision was taken on the facts alone, without any undue outside pressure.

5. WHAT PLANNING DECISIONS ARE BASED ON

5.1 Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, and the subsequently amended Act in 2004 together with Government guidance and cases decided by the Courts, define what matters are material to planning decisions.

5.2 It is the responsibility of officers in preparing reports and recommendations to councillors, and in advising committees, to identify the material planning considerations and to ensure councillors are aware of those matters which are not material to planning decisions.

5.3 Section 70 of the Town and Country Planning Act 1990, provides that councillors have a statutory duty when determining planning applications, to have regard to the provisions of the Local Plan/Local Development Framework where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the Local Plan/Local Development Framework. Section 38(6)

of the Planning and Compensation Act says that planning decisions shall be made in accordance with the Local Plan/Local Development Framework, unless material considerations indicate otherwise. The Local Plan/Local Development Framework consists of:

- Regional Spatial Strategy for Yorkshire and the Humber, and
- Selby District Local Plan (Adopted February 2005) policies as saved by direction of the Secretary of State dated January 2008.

It will be supplemented by the North Yorkshire Waste Local Plan and part will be progressively replaced by the Selby District Local Development Framework.

5.4 Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs) and Planning Policy Statements (PPS), Regional Planning Guidance, Circulars and Ministerial statements;
- planning briefs and other 'supplementary planning documents' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or

indirectly in terms of car parking and traffic generation);

- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

5.5 There is much case law on what are, and are not material planning matters. ***Planning matters must relate to the use and development of land.*** For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions:***

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by

agreement with the owner and, if it is not, the development cannot happen);

- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, e.g. restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that councillors are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. DUTIES AND SANCTIONS

6.1 The Planning Committee exercises the Council's statutory local planning authority functions and is the decision-maker for the purpose of determining applications. Decision-makers have a very special responsibility and have a number of statutory duties. There are also sanctions against the Council and councillors for a failure to properly discharge the local planning authority function. These duties and sanctions are summarised in Appendix 2.

7. THE DECISION-MAKING PROCESS

7.1 In reaching a decision on a planning application, councillors need to:

- (i) identify the Local Plan/Local Development Framework policies which are relevant to the particular development proposal;
- (ii) identify any other material considerations;
- (iii) if there are other material considerations, the Local Plan/Local Development Framework should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an adopted Local Plan/Local Development Framework. Exceptionally, paragraph 21 of the note “The Planning System: General Principles” accompanying Planning Policy Statement 1 (PPS1) (Delivering Sustainable Development) advises that the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the welfare of the local community may be material. Such arguments will seldom outweigh the more general planning considerations. That means such considerations generally have less weight.

7.2 At a fundamental level, councillors should go through the following three-stage process when making a decision:

Stage 1

- (i) Identify the relevant Local Plan/Local Development Framework policies and other relevant material considerations (if any) in respect of the application which need to

be taken into account in the decision-making process;

- (ii) Identify irrelevant matters which should not be taken into account in the decision-making process. These include the applicant’s personal qualities such as having a long-term family connection with the area, his or her popularity in the community, the fact that he/she is a local farmer, or the fact that a son or daughter is just about to marry.

Stage 2

Attach sufficient weight to the Local Plan/Local Development Framework policies and other material considerations for and against refusal or approval.

Paragraph 21 of the note accompanying PPS1 indicates that less weight is generally attached to personal circumstances. When they arise, they fall to be considered not as a general rule, but as an exception to a general rule to be met in special cases.

Paragraph 13 of the note accompanying PPS1 indicates that councillors must have proper regard to Government Statements of Planning Policy which indicate the weight to be given to relevant considerations. If councillors elect not to follow relevant statements of the Government’s Planning Policy, they must give clear and convincing reasons why not.

Stage 3

Weigh the material considerations in reaching a decision.

A failure to follow the proper decision-making procedure can give rise to proceedings for a judicial review or a finding of

maladministration by the Local Government Ombudsman.

- ***In the decision-making process, councillors should not take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government guidance on the weight to be attached to relevant considerations.***
- ***Councillors should determine applications in accordance with the advice given to them by their professional officers unless they have good planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.***

8. LOBBYING OF AND BY COUNCILLORS

8.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process; those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward councillor or to a member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a councillor being called into question.

8.2 Councillors need to take account of the general public's (and the

Ombudsman's) expectation that a planning application and other applications will be processed and determined in a transparently open and fair manner, in which councillors taking the decision will take account of all the evidence presented, before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality, predetermination or bias. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration; or the Monitoring Officer that a councillor has breached the local code.

8.3 A councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the councillor responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that councillor to argue convincingly when the committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at committee. ***The safest course of action for such a councillor would be to make an open declaration and not to vote.*** This can be seen, however, as a severe restriction on the councillor's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a councillor to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee meeting, to hear all the evidence presented, before making a final decision.

8.4 It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and overriding duty as a councillor to the whole local community'. However, the following guidance will be appropriate in most cases.

8.5 Councillors who are lobbied on a planning matter before the Planning Committee:

- *may listen to what is being said;*
- *may give procedural advice (e.g. to write to the relevant Director or the name of the case officer, the deadline for comments, whether the application is to be determined by the Planning Committee or officers, or how decisions are reached through officer recommendation/ Planning Committee);*
- *should refer the person and any relevant correspondence to the case officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the committee;*
- *should take great care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;*
- *should make it clear that councillors will only be in a position to take a final decision after having heard all the relevant evidence and arguments at committee;*
- *should not openly declare which way they intend to vote in advance of the relevant committee meeting, or otherwise state a commitment to oppose or support the application (or enforcement case or Local Plan/Local Development Framework proposal);*
- *should not negotiate detailed planning matters with applicants, agents, objectors, etc;*

- *should pass relevant correspondence to the case officer prior to any committee meeting;*
- *should report instances of significant, substantial or persistent lobbying to the relevant Senior Officer.*

8.6 Councillors who have openly declared their voting intention (on a planning or any other application, enforcement case or Local Plan/Local Development Framework proposal) in advance of the relevant committee meeting should make an open declaration and leave the meeting, taking no part in debate or voting on that matter.

8.7 To avoid impressions of improper influence which lobbying by councillors can create:

- *Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the District Council, and should not lobby other councillors - such actions can easily be misunderstood by parties to the application and by the general public.*
- *Councillors should not put pressure on officers for a particular recommendation.*
- *Political group meetings should not be used to decide how councillors should vote on planning matters.*
- *Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or Local Plan/Local Development Framework proposals to be determined by the Council. Where a councillor is involved in a particular planning matter, he/she should take care not to appear to try to influence other councillors, and should declare an interest at the relevant committee meeting.*
- *Whenever a councillor is approached or lobbied on any particular application, councillors*

should consider distributing on a regular basis the reply card attached as Appendix 3 which sets out the neutral stance which councillors need to adopt to remain impartial pending consideration of all the material facts at the committee meeting.

- *If councillors attend private site meetings in their ward at the request of the applicant they should express no opinion on the merits of the application and should normally advise the applicant that the councillor may also speak to other interested parties including objectors, again, without expressing any opinion on the merits of the application prior to determination before Planning Committee.*
- *Councillors should not normally undertake private site inspections in another councillor's ward without prior notice to the ward councillor. Again, councillors should express no opinion on the merits of the application.*

9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

9.1 The Council encourages pre-application discussions between planning officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving clear information about Local Plan/Local Development Framework policies, etc before proposals are designed; and so they can improve the quality of applications and development.

9.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines.

Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- *The officer should always make it clear at the outset that the discussions will not bind the Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.*
- *Advice should be consistent and based upon the Local Plan/Local Development Framework and material considerations.*
- *Where an officer is the decision-maker (for delegated matters - see paragraph 17), he/she should normally not meet the applicant, agent or objectors to discuss a case without another officer being present. A written note should be made of all discussions. A follow-up letter is advisable, at least when documentary material has been left with the Council.*
- *Whilst councillors will not normally be involved in pre-application or pre-decision discussions, if a councillor is present he/she should be accompanied by an officer. The councillor should be seen to be advised by the Planning Officer on Local Plan/Local Development Framework and other material considerations, and the officer should take a note of the meeting.*

9.3 Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put*

the request in writing - so that it is clear on what proposal or circumstances advice is being given.

- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*
- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to follow to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an officer cannot legally circumvent this procedure.*
- *Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant committee.*

10. REGISTRATION OF INTERESTS

10.1 The Localism Act 2011 and the local Councillor Code of Conduct place requirements on councillors to register and declare their interests and the consequences for the councillor's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by the Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each councillor.

10.2 A register of councillors' interests will be maintained by the Council's Monitoring Officer, which will be available for public inspection. A councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of his election, or appointment to office. Any

changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.

11. DECLARATION OF INTEREST AT COMMITTEE

11.1 Where an interest has been registered in the Register of Interests a Councillor may rely on that entry as sufficient to declare the existence of that interest. Where an interest has not been entered into the register a Councillor should declare that interest at the meeting at which the matter giving rise to the interest is going to be considered.

11.2 Where the interest is a Disclosable Pecuniary Interest the Councillor should also leave the meeting for the whole consideration of that item of business and take no part in the consideration and voting on the matter.

12. TOWN OR PARISH COUNCIL MEMBERSHIP

12.1 Town and Parish Councils and Parish Meetings are not statutory consultees in the planning process and as such do not have to be consulted on every planning application by the Council. However, the Council consults the relevant town or parish council or parish meeting on planning applications where they have specifically requested to be consulted. Planning officers may, on request, attend a town or parish council meeting early in the life of an application to explain the facts of the application and any relevant Local Plan/Local Development Framework policies.

12.2 Difficulties can arise for councillors who are members of a town or parish council as well as the District Council. By taking part in a town or parish council

meeting when their comments on an application are agreed, a district councillor will be seen to have made up his/her mind in advance of hearing all the issues at the decision-making District Council committee. The councillor could be considered to have fettered his or her discretion. In those circumstances the councillor should not participate at the District Council meeting. In such cases the councillor has been excluded not because of the Code but because the councillor's previous actions had fettered his or her discretion and possibly laid the Council open to the objection that the planning process had been tainted. So, a councillor has to choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making, or reserve judgment until all views have been considered and only then form a view.

'Dual' councillors should therefore either:

- ***not take part in the discussion of an application at the town or parish council meeting at which comments are agreed; or***
- ***not take part in the discussion/decision on the application at the District Council committee meeting;***
- ***indicate that despite coming to one view at the town or parish council meeting they remain open to consider further or additional information presented subsequently in the other forum.***

Furthermore:

- ***although the consultation response from a town or parish council is a relevant consideration, councillors should not automatically defer to the town or parish council view, because town or parish councils do not have the advice of professional planning officers in reaching their decision.***

13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL

13.1 Councillors or officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the appropriate officer of the breach in writing.

13.2 Breaches of planning or listed building control involving a councillor or an officer should be promptly investigated and be the subject of an enforcement report to the Planning Committee.

14. OFFICER REPORTS TO COMMITTEE

14.1 Development Framework and other material considerations, all committee decisions on planning applications, enforcement cases and Local Plan/Local Development Framework proposals will normally be taken only after the committee has received a written officer report. Written officer reports will be agreed by the lead officer for planning matters, and will reflect the collective view of the Department - not the view of the individual author.

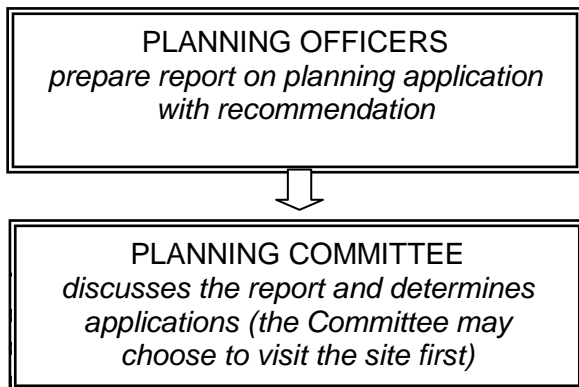
14.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and local planning policies and their implications for the case; the site or related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;

- if the recommendation is contrary to the provisions of the Local Plan/Local Development Framework, clearly state the material considerations which justify this;
- describe the purpose and content of any planning agreement or obligation proposed in association with the planning permission.

15. COMMITTEE PROCEDURES

15.1 Decisions for most planning applications are taken by the Council's Planning Committee. The procedure for processing planning applications may be summarised as follows:



containing all comments, are also available at that stage. Late letters and other information may be put to committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend committee meetings and may speak under the terms of the Council's public speaking policy.

15.3 A guidance leaflet on public speaking and the process to be followed is available from the District Council. In essence, the officer will explain what is proposed and highlight the key planning issues. Any objectors wishing to speak can each address the committee for up to 5 minutes. If the applicant (or agent) wishes to speak or respond to points raised, they can then do so. Councillors will then debate the merits of the case and arrive at a decision.

15.4 It is important that councillors are present throughout all the debate on an item. If any councillor has to leave the committee meeting for any reason, thereby missing any part of the proceedings, he/she should take no further part in the voting for the item(s) considered during their absence.

15.5 The Planning Committee may agree or disagree with the report and recommendation (but see sections 18 and 19 below). Having considered all the relevant planning matters, the committee may:

- grant planning permission, usually with appropriate planning conditions;
- refuse planning permission, with justified planning reason(s);
- defer the application for further consideration.

15.6 Decisions on Local Plan/Local Development Framework proposals are taken by the Council, following consideration of a written officer report.

15.7 The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will not usually be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chair of the meeting, assisted where appropriate by officers. To facilitate this:

- ***a briefing for the Chair and Vice-Chair of the Planning Committee (also incorporating the attendance of a representative of the political groups) will be held after the officer reports and recommendations have been published. The purpose of these briefings is to inform the Chair and Vice-Chair of the issues, to ensure that the rationale for the***

officer's recommendation is explained, and to identify any potentially problematic or controversial items;

- *one or more chartered town planners will be present at all Planning Committee meetings at which planning matters are considered;*
- *a legal officer will normally also be present.*

16. COMMITTEE SITE VISITS

16.1 The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a ward councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the ward councillor can justify his/her request in relation to material planning considerations. Site visits should not be employed merely to appease local interest in an application.

16.2 However, site visits cause delay and add costs for the applicant and the Council, and should only be used where there are substantial benefits. Therefore:

- *A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by officers, or if the proposal is particularly contentious.*
- *The reasons for a site visit should be clearly stated and minuted.*
- *All members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following committee meeting.*

16.3 Site visit meetings will be conducted in a formal manner:

- *The Chair should start by explaining the purpose and conduct of the site inspection.*
- *The planning officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.*
- *The planning officer will be asked to point out relevant features which can be observed. Councillors may also wish to point out features which can be observed, or to ask factual questions of the Planning Officer.*
- *To avoid giving an impression of being lobbied, councillors should not listen to or talk to any individuals whilst on site, unless being addressed as a group. Any comments should be made to the whole group through the Chair.*
- *The public, applicant or objector may attend the site inspection and will be invited by the Chair to draw Members' attention to any salient features or to any relevant factual information.*
- *Other than to draw councillors' attention to any salient feature or to clarify a factual point, the public, applicant and objector will not be allowed to participate.*
- *To avoid councillors being spoken to individually, the Chair should endeavour to keep the committee together as a group.*
- *No discussion or decision-making will take place on site.*
- *No hospitality will be accepted before, at or after site visits.*
- *Councillors or officers who have any declarable interest which means they should not participate at committee on determining the application, should not attend a site inspection.*

17. DECISIONS DELEGATED TO OFFICERS

17.1 The Council has agreed that decisions on certain types of application can be taken by appropriate officers who may ***delegate decisions to nominated Principal Officers within the team.***

17.2 The full list of decisions delegated to officers is set out in Part 3 of this Constitution.

18. DECISIONS CONTRARY TO THE LOCAL PLAN/LOCAL DEVELOPMENT FRAMEWORK

18.1 Planning decisions must normally be taken in accordance with the Local Plan/Local Development Framework (see paragraph 5.3).

18.2 *If the planning officer is recommending granting planning permission contrary to the Local Plan/Local Development Framework:*

- *The decision will always be taken by committee, and not as a delegated decision.*
- *The planning officer's report to the committee must clearly identify the material planning considerations and how they justify overriding the Local Plan/Local Development Framework.*
- *The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (General Development Procedure) Order 1995, Article 8.*

18.3 If the decision would be a significant departure from the Local Plan/Local Development Framework, (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Secretary of State to enable him/her to decide whether to 'call in' the application to be decided centrally.

19. DECISIONS CONTRARY TO OFFICER ADVICE

19.1 If the Planning Committee makes a decision contrary to the officer's recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the planning officer's recommendation, or the Chair, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be material planning considerations (see section 5 above).*
- *the planning or legal officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and, if an approval is proposed, to recommend appropriate planning conditions.*
- *if the decision would be contrary to the Local Plan/Local Development Framework, then the officer should comment on the extent to which the other planning considerations could be seen to override the Local Plan/Local Development Framework, and on whether the decision would be a significant departure from the Plan requiring (see section 18 above).*
- *where the Planning Committee indicates that it is not minded to accept the planning officer's recommendation for approval, the planning application should be deferred to the next available meeting of the Planning Committee where so requested by an appropriate officer. This deferral period enables the planning officer to prepare clear and convincing planning reasons for refusal.*
- *a detailed minute of the committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is*

contrary to the Local Plan/Local Development Framework, the minute should state that and clearly set out those planning considerations which override the Local Plan/Local Development Framework.

19.2 If a committee wishes to amend or add conditions to an approval, officers should be requested to draft the detailed wording of the conditions in line with the committee's wishes. Both reasons for refusal and for supporting conditions need to clearly refer to applicable Local Plan/Local Development Framework policies, where relevant.

20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

20.1 One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

20.2 The principles which can be distilled from Ombudsman cases are as follows:

- there is perversity and maladministration, if a local planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:

- insufficient weight has been given to the officer's recommendations and Central Government guidance; and
- there is a failure to give and record reasons for the Authority's change of mind.

20.3 Councillors are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant changes in the planning circumstances.

20.4 Therefore:

- ***If a committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chair should state what the significant changes in the planning circumstances justifying approval are before a vote is taken;***
- ***If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chair should also state why the Inspector's decision should no longer be followed before a vote is taken.***

21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS

21.1 Proposals to their own Authority by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. Proposals can take the form of either planning applications or Local Plan/Local Development Framework proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are

handled in a way which gives no grounds for accusations of favouritism.

21.2 For planning proposals from officers and councillors:

- ***Serving councillors and officers who submit their own proposal to the Authority they serve should play no part in the decision-making process for that proposal.***
- ***Such proposals will be reported to committee and not dealt with by the Development Management Manager under delegated powers.***
- ***The Council's Monitoring Officer should be informed of such proposals by serving councillors, and the officer's report to the committee will show that the applicant is a councillor.***
- ***Councillors and officers should never act as agents for people pursuing a planning matter with their own Authority.***

21.3 For proposals submitted by close relatives and friends of officers involved with the development control process:

- ***The officer concerned will have no involvement with the application;***
- ***The officer concerned should alert a Director and/or the Solicitor to the Council and/or the Monitoring Officer to the proposal.***

21.4 Where a planning proposal directly affects the property or personal interests of a councillor, he/she should play no part in the decision-making process. This would apply, for example, if a councillor submitted comments, as a neighbour, on a planning application.

21.5 Similarly, an officer should have no involvement in processing a planning proposal which directly affects his/her property or personal interests.

22. THE COUNCIL'S OWN DEVELOPMENTS

22.1 Proposals for the Council's own developments have to be treated in the same way as those by private developers.

- All applications for the Council's own developments will be reported to committee and not dealt with by officers under delegated powers.
- All applications for the Council's own developments will be the subject of a written officer report, as with other applications.

23. THE MEDIA

23.1 The principles of this Code also apply to contact by the Press, councillors and officers when commenting to the media on planning matters should:

- ***have regard to the points made in the section on lobbying (Section 8);***
- ***ensure that they do not give the impression that they have prejudged the planning application.***
- ***make clear that councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate committee.***
- ***for delegated applications, make clear that the decision-making officer will retain an open mind until such time as the full facts are available and presented for decision.***

23.2 Any officer can provide facts about a planning matter which are in the public domain and available to the media. However, the media should be referred to a Director for attributable comments.

24. RECORD KEEPING AND COMPLAINTS

24.1 The Council has established its own Complaints Procedure. Complaints are first investigated within the section by an

officer more senior than the case officer. If the complaint cannot be resolved within the Section it will be investigated separately by an officer outside of the Development Services Section.

24.2 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- ***The main source of this documentation will be an officer or the report to committee and, if the committee does not agree the recommendation, the committee minutes.***
- ***For delegated applications, a formal note of the main planning considerations is written and kept on file.***
- ***These principles apply equally to enforcement and Local Plan/Local Development Framework matters;***
- ***All committee reports and delegated decision reports will be checked and agreed by Senior Officers.***
- ***A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in proportion to the significance of the event.***

24.3 Section 14 gives more details on what reports contain.

25. TRAINING

25.1 As section 5 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each councillor and officer in the Planning Section, including new councillors and employees.
- The Council will provide periodic training events for councillors on planning, which all councillors should endeavour to attend.
- Councillors newly elected to the Council must attend a training event on planning within their first year on the Council. A special training event for councillors will be held after each four-yearly election of all councillors.
- The Council will employ a chartered town planner as its senior planning officer, and will attempt to employ trained or chartered town planners to operate its main planning functions.
- The Council will, as far as possible, assist officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on chartered town planners.

26. LEARNING FROM PAST DECISIONS

26.1 The lessons to be learned from any complaint against the planning service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by planning officers of a selective number of planning decisions which will be appraised by visiting the sites,

considering, where appropriate, any complaints, to learn from experience.

27. HOSPITALITY

27.1 Councillors and officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.

27.2 Councillors should be very cautious about accepting gifts and hospitality. The Code of Conduct for Councillors requires any councillors receiving any gift or hospitality, **in their capacity as a councillor**, over the value of £50, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will be recorded in a register of gifts and hospitality, which will be open to inspection by the public.

27.3 Similarly, officers, during the course of carrying out their duties, may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Councils should provide a Register of Hospitality and Gifts to record such offers whether or not accepted. This register should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is a feature of the statutory Employees Code of Conduct.

27.4 The presumption should be that any gift is normally refused.

28. RACIST COMMENTS

28.1 The Council will follow the procedures in the RTPI note "Planning Authorities and Racist Representations". In particular:

- Letters containing racist comments will be returned to the writer;
- Racist comments will not be referred to in reports to committees;
- Persistent racist comments will be referred to the Commission for Racial Equality or the Police. This is to ensure that the Council abides by Sections 31 and 33 of the Race Relations Act 1976.

28.2 Any applicants suggesting that they have been affected by racial abuse in whatever form, will have their application considered by the Planning Committee and the Monitoring Officer will be advised of the circumstances and representations received.

APPENDIX 1: OTHER GUIDANCE

FROM SELBY DISTRICT COUNCIL

Code of Conduct for Councillors
Employees' Code of Conduct
The Constitution

FROM OTHER ORGANISATIONS

'Code of Professional Conduct' The Royal Town Planning Institute, (January 2001).

'Guidance for Good Practice on Members' Interests', the Commission for Local Administration in England, April 1994.

'Probity in Planning', Local Government Association, 1997.

'The Role of Elected Members in Plan Making and Development Control', RTPI, 1997.

'Planning Authorities and Racist Representations', RTPI, July 1996.

'Probity in Planning (Update)', Local Government Association (March 2002)

APPENDIX 2: DUTIES AND SANCTIONS

1. DUTIES OF COUNCILLORS

In determining applications, councillors are not bound to follow the officer's recommendation contained in a report. The committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever councillors do, for example, in approving applications contrary to the officer's recommendations or national and Local Plan/Local Development Framework Policy.

Members of the local planning authority have the following duties:

- (i) Councillors must at all times act within the law.
- (ii) The overriding duty of councillors is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community.
- (iii) Councillors have a statutory duty when determining planning applications to have regard to the provisions of the Local Plan/Local Development Framework where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Councillors have a statutory duty to determine planning applications in accordance with the Local Plan/Local Development Framework, unless material considerations indicate otherwise (Section 54A of the Town & Country Planning Act 1990).
- (v) Councillors have a statutory duty when determining planning applications "to seek the achievement of the general objectives of the structure plan for the time being in force in their area". (Paragraph 7 of Schedule 1 of the Town & Country Planning Act 1990).
- (vi) Councillors have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Section 16 of the Planning (Listed Building and Conservation Area) Act 1990).
- (vii) Councillors have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic

interest (Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990).

- (viii) Councillors have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990).

2. SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND COUNCILLORS

Sanctions against local planning authorities and councillors are necessary because duties without sanctions would be potentially unenforceable. This part of the Code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and councillors.

The consequences of an unlawful or unreasonable planning decision are that the Council and councillors would become subject to the scrutiny of the following external agencies:

(1) STANDARDS

The Localism Act 2011 replaced Part III of the Local Government Act 2000 which introduced the New Ethical Framework for Local Government.

Local authorities including district councils, town and parish councils have a duty to adopt a local Councillor Code of Conduct to govern the conduct expected of elected and co-opted members of district councils and town/parish councils. To be more explicit it is concerned with the proper behaviour of politicians in public life, namely:

- (1) the way in which politicians conduct themselves in decision-making;
- (2) their relationships with constituents, officials and outside interests; and
- (3) how conflicts of interest are declared and handled in the decision-making environment of a Council.

(2) DISTRICT AUDITOR

The term 'surcharge' described the former powers of the auditor to recover financial losses from individuals on the basis that he or she is responsible for the authority incurring unlawful expenditure or has caused loss to the authority through misconduct. The surcharge provisions were repealed by Section 90 of the Local Government Act 2000.

Section 91 of the Local Government Act 2000 introduced a system of advisory notices. Advisory notices apply to all bodies subject to audit under the Audit Commission Act 1998.

The advisory notice gives auditors time to seek the opinion of the Courts on the legality of an authority's actions where they consider that the authority or a committee is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the authority concerned.

An authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the Court on the legality of the proposed course of action. The authority may then only proceed with the action if the Court decides that it is lawful or if the auditor does not seek a Court's opinion within the notice period.

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee or the Executive are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;
- (c) costs of local public inquiries, including possible award of applicants' costs following use of the Secretary of State's call-in powers;
- (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

(3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;

- (c) failure to give due weight to officer's recommendations and national policy coupled with a failure to give and record clear and convincing planning reasons for approving a planning application where a planning application for substantially the same development has previously been refused;
- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974, as amended.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believes that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:

- (a) whether the Council determined the planning application in accordance with the Local Plan/Local Development Framework or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;
- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;
- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the claimant succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the claimant's action to be awarded against the Council.

(5) **THE "CALL-IN" POWERS OF THE SECRETARY OF STATE**

The Secretary of State has call-in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with national and Local Plan/Local Development Framework policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the local planning authority. This power is contained in Section 77 of the Town & Country Planning Act 1990.

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the local authority.

An example of this power being exercised is the Secretary of State's decision to revoke a planning permission for a superstore in Alnwick. The supermarket group Safeway demanded in excess of £4 million compensation from Alnwick District Council, which is the third smallest district council in England. The Secretary of State concluded that Alnwick District Council was grossly wrong to grant planning permission for a supermarket on the grounds, inter alia, that it was contrary to national planning guidance, Structure and Local Plan policies.

**APPENDIX 3 : REPLY CARD FOR MEMBERS OF THE
PLANNING COMMITTEE**

Reply card for members of the Planning Committee

Application details: _____

Thank you for your communication in respect of the above application. Your concerns and comments are noted.

Yours faithfully

Councillor.....

APPENDIX 4: EXAMPLE OF A CASE CONSIDERED BY THE LOCAL GOVERNMENT OMBUDSMAN

The following is an example of a case (from another authority) considered by the Local Government Ombudsman:

Councillors were criticised by the Ombudsman for being unduly influenced by the lobbying of a developer who was seeking permission for the development of 22 houses. However it was judged that there was no evidence of any improper relationship between the developer and councillors despite an allegation to the contrary.

The complainant who lived opposite the site, argued that the council had unreasonably granted approval against the advice of officers, for the housing development. In particular it was claimed that the scheme would give rise to highway dangers and would lead to overlooking.

In assessing the claims, the ombudsman agreed that the council had been the “author of its own misfortune” in the way in which the application had been handled. The minutes of the meeting recorded few reasons why the councillors voted to grant approval against officer’s advice. Moreover although many councillors spoke with the developer, there was no record of what was said or agreed. In taking into account the financial viability of the redevelopment, this was not a material planning consideration.

For all of these reasons the ombudsman concluded that the decision to approve the application was affected by maladministration. However there was no evidence of any underhand dealings. Thus in deciding the level of injustice to the complainant, it was noted that the council had approved more houses on the site than was advocated in a Local Plan/Local Development Framework policy. There would be some overlooking since the distances between properties was less than recommended guidelines.

The ombudsman concluded that a different outcome would have been likely if councillors had understood the fact that the scheme varied markedly from the Local Plan/Local Development Framework proposals and from national advice in PPG3. A smaller scheme would probably have resulted and accordingly she recommended that the council should pay the complainant £1,000. Additionally it was also recommended that applicants and objectors should be allowed to address the development control sub-committee in order to reduce accusations of unfairness.

APPENDIX 5 : THE GENERAL PRINCIPLES

THE GENERAL PRINCIPLES

Selflessness

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

Honesty and Integrity

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

Objectivity

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

Accountability

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

Openness

5. 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.

Personal Judgement

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

Respect for Others

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

Duty to Uphold the Law

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

Stewardship

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

Leadership

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

A. AT THE PLANNING COMMITTEE

1. DECLARATIONS OF INTEREST

Section 4 – The gives details of the Code of Conduct for Councillors.

The responsibility to declare an interest rests with individual councillors. Guidance on the declaration of interests is available from the Solicitor to the Council.

2. ROLE OF COUNCILLORS

Planning matters should only be considered on the basis of a written report by a Planning Officer. Planning applications must be considered on the basis of all material considerations, which may include the provisions of the Development Plan; responses from statutory and non-statutory consultees; representations from third parties such as local residents and the views of local councillors. As required by the Town and Country Planning Act 1990, applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The public must be able to see that procedures are applied. Any debate about the merits of a planning proposal should be conducted in accordance with the principles of natural justice. The debate should allow all Councillors to put their views and for these to be considered. A local councillor who is not a member of the Planning Committee should be allowed to address the Planning Committee.

If a site visit is agreed the reasons for the site visit must be recorded in the minutes.

3. THE ROLE OF THE PLANNING OFFICER

The Planning Officer's responsibility is to make technical reports and to give professional advice. It is the duty of the planning officer to accurately report all representations which have been made, including any made by councillors. Representations from third parties will normally be précis. The planning officer should be allowed to contribute to the debate at the Planning Committee if he or she considers that further technical advice is required to inform the debate.

4. DECISIONS CONTRARY TO PROFESSIONAL ADVICE

Where councillors, having considered all material considerations, decide to make a decision contrary to professional advice, it is essential that a full explanation of the reasons for taking such a step is provided. These reasons need to be based upon land-use planning considerations and need to be clear and convincing. The reasons must be defined at the time and properly minuted. If such a decision involves the granting of planning permission, the

planning officer should be given delegated authority to attach any appropriate conditions.

Councillors may need to consider appropriate representation at any ensuing appeal, where applications are determined contrary to officers' advice.

5. ENFORCEMENT

Enforcement action should only be taken in accordance with the advice contained within PPG18, circular 10/97 and the Council's Enforcement Policy. The issue of Enforcement Notices, Breach of Condition Notices and Planning Contravention Notices is delegated to the Directors in consultation with the Chair of the Planning Committee. Where a complaint has been received, and the planning officer does not consider enforcement action is merited, if the objector remains aggrieved, the matter will be brought to the Planning Committee.

If a councillor receives a complaint regarding an alleged breach of planning control, it should be passed to the Planning Section, for investigation.

6. COUNCILLORS' PLANNING APPLICATIONS

If a councillor is likely to make regular planning applications, he or she should not sit on the Planning Committee. Where an application might be made occasionally, he or she would need to declare an interest, and thereafter take no part in any discussions about the application.

7. CONCLUSION

This Code of Practice has been drawn up in the light of the need to build upon the National Code of Local Government Conduct and give more particular advice about planning and enforcement matters. Through the application of this Code, the public will be able to see that the proper procedures are being followed, and impartially is being observed.

B. PROPRIETY IN RELATION TO DEVELOPMENT CONTROL MATTERS

EXTRACT FROM PLANNING POLICY STATEMENT 1

- “27 The members of the local planning authority are elected to represent the interests of the whole community in planning matters. When determining planning applications they must take into account planning considerations only. This can include views expressed on relevant planning matters. However, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons.
28. Each local authority is required to adopt a local code of conduct for councillors. The Code of Conduct for Councillors sets out the expectations as to the conduct of elected councillors in carrying out their official duties. The guidance note, *Probity in Planning (update) – the role of councillors and officers*, published by the Local Government Association in 2002, relates these requirements specifically to planning. The Monitoring Officer is responsible for investigating allegations of breaches of local codes and has a range of sanctions open to it, ranging up to suspension or removal from office. Similarly the Local Government Ombudsman may find that the breach of a code by a councillor constitutes maladministration.”

C. AREAS OF RESPONSIBILITY OF THE PLANNING COMMITTEE

1. To act as the co-ordinating committee for all planning and building control services of the Council.
2. To perform the functions of the Council under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and other legislation in force from time to time.
3. To consider all matters relating to the development of the area, under planning legislation within the district and outside the district where participation is considered appropriate.
4. To consider all matters relating to Conservation Areas and Listed Buildings.
5. To consider regional planning policy when making decisions.
6. To respond to the plans and policies produced by other organisations.
7. To liaise with other organisations and committees concerning environmental issues and integration of land use, transportation, environment and economic development.

D. SPEAKING AND VOTING RIGHTS FOR COUNCILLORS

**REPORT BY HEAD OF LEGAL SERVICES – PLANNING COMMITTEE –
9 NOVEMBER 2005**

“The Planning Committee is similar to a Court of law in that each Member has a vote on planning issues and those votes must be used properly having regard only to the planning merits of a particular case.

The normal situation is where each Member of the Planning Committee attends the meeting, speaks and votes on a particular matter.

However, sometimes a Member of the Planning Committee will decide that they would prefer not to take part in the debate, having expressed a view on the merits of a particular case before the matter is considered before committee. If a Member chooses to do this then they have effectively disbarred themselves from taking part at the Planning Committee as a Planning Committee Member. This is on the basis of the rules of natural justice which means that those who are judging a particular matter must come to the meeting with an open mind.

They must consider all relevant factors and disregard all irrelevant factors and must not have come to any pre-conceived ideas. If they take part in any lobbying process beforehand, or simply decide not to take part as a Planning Committee Member, they will not be able to take part and vote.

There is sometimes a conflict between a district councillor’s responsibility towards his constituents and the need to decide a planning application objectively.

If the Planning Committee Member feels unable to reconcile that apparent conflict then they often decide not to attend the Planning Committee but thereafter prefer to speak out as the Ward Member.

A Member of the Planning Committee should in general avoid organising support for or against a planning application and should not lobby other councillors. Not only will it preclude them from taking part as a Planning Committee Member, but it also leads to misunderstandings by the applicant, objectors and the general public, and puts the Authority in a position of alleged wrong-doing.

Where an individual councillor on the Planning Committee has decided to speak out as a Ward Member, we now have to consider whether they can attend the Planning Committee and speak out under the normal perceived speaking rights.

The position is that the Council’s Constitution and in particular, paragraph 5.19(a), (b) and (c) covers the position relating to attendance at committees by non-members of that particular committee.

At first sight it would appear that the Member concerned can speak with the Chairman’s consent but clearly cannot vote on the particular item.

However, the Constitution only relates to the rights of non-members of a particular committee and it follows therefore, that if a Member of the Planning Committee decides to not appear as a Member of that Committee, then the right to attend meetings by non-members of the Committee does not apply.

My view is, therefore, that having absented themselves from the Planning Committee, they cannot re-appear as a Ward Member and speak.

The question then arises as to whether a councillor who is not a member of the Planning Committee can attend the Planning Committee as a Ward Member and speak on a particular item.

Under the rules of the Constitution, in particular paragraph 5.19, that would be allowed unless the individual councillor has a personal and prejudicial interest.

In a recent case involving County Councillor Richardson – v – North Yorkshire County Council, the Court of Appeal considered whether an individual councillor, not being a member of the Planning Committee, could attend the meeting as a member of the public and speak out against a particular matter.

The Court decided that because the individual was a county councillor, then the normal rules relating to the Declaration of a Personal and Prejudicial Interest would apply, and in effect, the Member's private rights would not be allowed to overrule his rights and responsibilities as an elected councillor.

The case is subject to further appeal to the European Court as to whether denying the councillor a right to speak was a breach of the Human Rights Act 2000 and a decision is still awaited.

However, English law at the moment has decided that if an elected councillor has a personal or prejudicial interest in a matter then they cannot appear at a committee meeting and speak on the particular subject, as a member of the public.

I finally need to mention the question of personal and prejudicial interests. The declaration of a personal and prejudicial interest is a responsibility attached to an individual councillor. Advice will be given by the District Council's Monitoring Officer on any individual case, but if in doubt, it is far better for a Member to declare an interest and stay out of a debate.

There may have been some confusion with regard to personal and prejudicial interests for members of the committee who have decided beforehand to take a particular stance on a matter, prior to the matter coming before committee for debate. It is clear that they have "prejudiced" themselves from attending the committee in that particular instance but I prefer to describe it as "actions by the councillor which have made it impossible for them to reach an objective decision" rather than saying they have prejudiced themselves."

CODE OF CONDUCT FOR MEMBERS OF THE COMMUNITY ENGAGEMENT FORUM PARTNERSHIP BOARD

PART 1 - GENERAL PROVISIONS

1. Scope

- (a) A Member of the Board must observe the Board's Code of Conduct whenever he/she:
 - (i) conducts the business of the Board;
 - (ii) acts as a representative of the Board.

2. Standards of Behaviour

- (a) This Code of Conduct shall not have effect in relation to the activities of a Member of the Board undertaken other than in an official capacity.
- (b) Where a Member of the Board acts as a representative of the Board on another relevant body, he/she must, when acting for that other body, comply with that other body's Code of Conduct.
- (c) In this Code, "Member of the Board" includes a co-opted Member of the Board.

3. General Obligations

A member of the Board must act in accordance with the Local Councillor Code of Conduct adopted by Selby District Council and which is set out at Part 5 of this constitution.

4. Respect and Courtesy

- (a) For the effective conduct of the Board's business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members of the Board and officers of the partner organisations. This too plays a very important part in the Board's reputation and how it is seen in public. It is very important that both Members of the Board and officers remember their respective obligations and to do what they can to avoid criticism of other Members of the Board, or other officers, in public places.

5. Conclusion

- (a) It is hoped that, by following good practice and securing sensible and practical working relationships between Members of the Board and others, we can provide one of the cornerstones of a successful public Board.

COUNCILLORS' ALLOWANCE SCHEME

COUNCILLORS’ ALLOWANCE SCHEME

The present scheme was adopted in March 2011 as a result of a report from the Independent Remuneration Panel on Members’ Allowances.

The scheme provides for a Basic Allowance payable to all Councillors together with an allowance for Councillors having Special Responsibility. No Councillor is entitled to receive more than one Special Responsibility Allowance. All of these allowances will increase annually on 1 April in line with the percentage increase in the national pay award for Officers.

Basic Allowance per annum (per Councillor) £4,115

SPECIAL RESPONSIBILITY ALLOWANCES :

a) Leader and Deputy Leader

Leader of the Council	£10,288
Deputy Leader	£ 4,115
Executive Councillors	£ 4,115

b) Group Leaders :

Majority Group Leader	£ 2,058
Opposition Group Leader	£ 2,058
Other Group Leader	£ 0

c) Chairs of the following Committees:

Scrutiny Committee	£ 3,087
Policy Review Committee	£ 3,087
Audit Committee	£ 2,058
Planning Committee	£ 4,115
Licensing Committee	£ 4,115

Part 6 – Councillors’ Allowances Scheme

The subsistence and travel allowance payable to Councillors is in line with the Officers’ Scheme of Allowances. The current levels are:

Daily Subsistence Allowance

Breakfast	-	£6.06
Lunch	-	£8.37
Evening Meal	-	£10.35

Overnight Subsistence

Lodging Allowance	=	£121.41
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Subsistence Guidelines

Breakfast

Payable where training or course commences before 8.00am. Travel time from the work centre or home, whichever is the least is included for calculating this allowance.

Lunch

Payable where the Councillor is away from his/her place of work between 12.00 noon and 2.00pm. ‘Away’ is at least 5 miles away from the work centre.

Dinner

Payable where the Councillor returns after 8.30 pm.

For Dinner allowance travel time for returning to the work centre or home, whichever is the least, is included in calculating the allowance.

Mileage (April 2011/12)

451 – 999cc per mile (first 8,500)	46.9p
451 – 999cc per mile (after 8,500)	13.7p
1,000 – 1199cc per mile (first 8,500)	52.2p
1,000 – 1199cc per mile (after 8,500)	14.4p

Where a Councillor uses their own private vehicle for travelling from some place other than home, the qualifying mileage is based on the shortest distance of travelling between either home to the meeting or the actual place to the meeting. This principle would also apply when travelling from meetings.

MANAGEMENT STRUCTURE

General Description

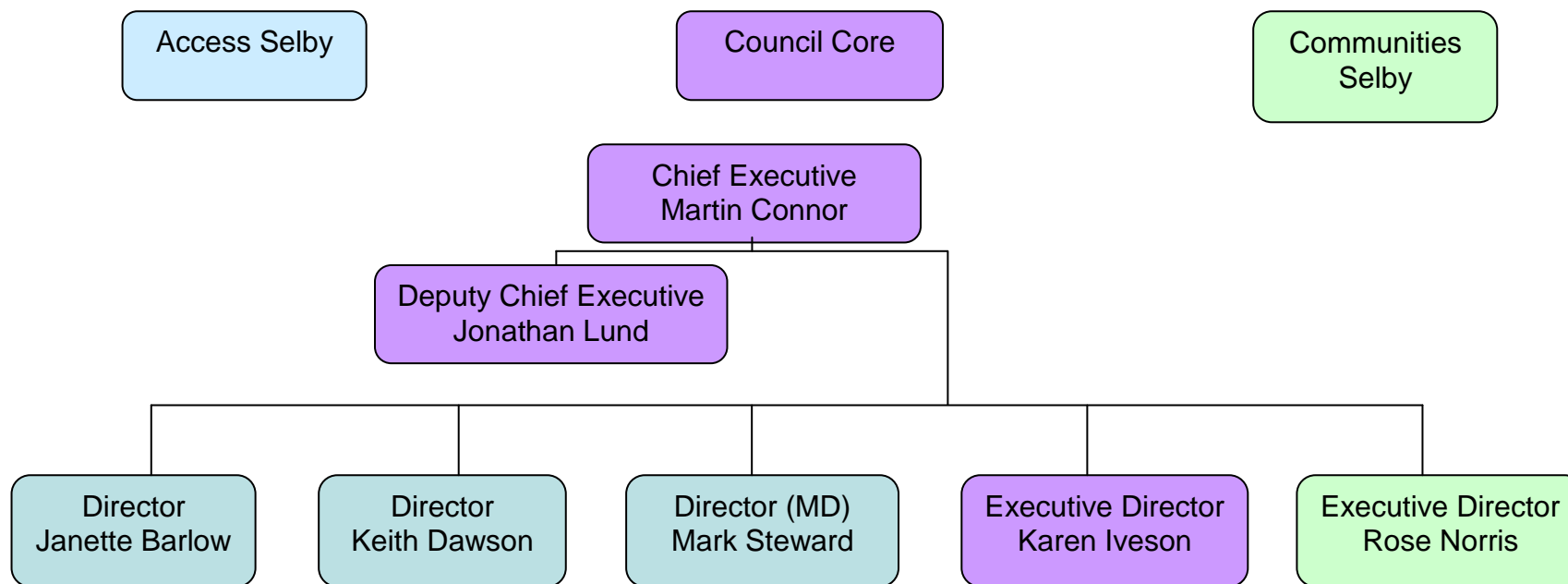
The Council's management structure is headed by the Chief Executive as Head of Paid Service and he/she, together with the Deputy Chief Executive and the Executive Director with s.151 responsibilities, form the Strategic Management Team (SMT).

The Communities Selby Team is led by an Executive Director.

A Corporate Management Team comprises the Chief Executive, Deputy Chief Executive, the Executive Director with s.151 responsibilities, the Executive Director supporting the development of 'Communities Selby' and three 'Access Selby' Directors.

The 'Access Selby' Management Team comprises three Directors (including a Managing Director) and five Business Managers.

Management Structure



GLOSSARY OF TERMS

GLOSSARY OF TERMS

Articles	The basic rules governing the Council's business. Articles can not be suspended.
Background Papers	Report authors must list any unpublished papers used in compiling a report for decision, and these papers must be available for 4 years for public inspection.
Budget	The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of the capital expenditure and the setting of virement limits.
Budget and Policy Framework	The plans and strategies, which have to be adopted by the Council and within which the Executive have to operate – see Article 4.
Executive	The councillors who together with the Leader form the Executive.
Call-in	The process by which the Scrutiny Committee consider whether a decision is properly taken or is the right decision.
Capital Expenditure	Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.
Casting Vote	A vote made by the Chairman to decide a matter when there is a tied vote.
Chairman	The civic head of the Council, who chairs the meeting of the Council. The Chairman is not responsible for the running of the Council.
Chair/Vice-Chair	The person (man or woman) who chairs a body of the Council, e.g. committee etc./the deputy to the Chair.
Chief Executive	The most senior officer, with overall responsibility for the management and operation of the Council also known as the Head of the Paid Service.
Chief Finance Officer	The officer responsible for the administration of the financial affairs of the Council. Also known as the Section 151 Officer.
Chief Officers	A general term for the Chief Executive and Deputy Chief Executive.

Code of Practice	A set of rules, usually of expected behaviour.
Committee	A formal body consisting of elected councillors, constituted under the Local Government Act 1972.
Constitution	A document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
Co-opted Member	A non-voting, non-councillor appointed to serve on a committee in an advisory capacity.
Council	This can be used either: As the term used for the organisation or In respect of the meeting of all of the councillors.
Councillor	A specific term for an elected member of the Council and representative of the local community.
Code of Conduct for Councillors	Agreed Code set out in the Constitution governing how councillors must conduct themselves whilst carrying out Council business or acting as a representative of the Authority.
Councillors' Allowance Scheme	The scheme of payments made to councillors.
Council Tax	The money raised by the Council from residents of the District.
Director	A specific term for a Senior Officer within Access Selby.
Disclosable Pecuniary Interest	A category of interest established under the Localism Act 2011 and subsequent regulations. It is a criminal offence for a Councillor to fail to register a DPI or to take part in decision making on matters affected by a Councillor's DPIs
Executive	The Leader and Executive, responsible for carrying out almost all of the local authority's functions.
Executive Director	A specific term for a Senior Officer within the Council's Core.
Exempt Information	Information falling into one of 7 categories set out in the Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 and the Local Government (Access to Information) (Variation) Order 2006 which usually cannot be publicly disclosed – see the Access to

Group Leader	Information Procedure Rules in Part 4 of the Constitution. In respect of any political group means the person whom the group has identified as its leader by notice in writing to the Chief Executive.
Head of Paid Service	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.
Human Rights Act 1998	The Act which puts European Human Rights into UK law. The Council by law considers the impact of its action on the rights of individuals.
Key Decision	A decision which is likely either to incur significant expenditure/make significant savings (over £150,000) or to have a significant impact on those living or working in 2 or more Wards of the District.
Laws	Acts of Parliament or Regulations.
Leader of the Council	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.
Local Government Ombudsman	Appointed nationally to look into complaints by the public about the way they have been treated by or the service they have received from councils.
Member	A councillor, the elected representative of the community.
Member of the Public	Anyone who is not a part of the Council.
Minutes	The formal record of the proceedings of a meeting.
Monitoring Officer	The officer appointed under the Local Government and Housing Act 1989 to oversee the legality of the Council's actions and the ethical behaviour of councillors and employees. This is a statutory proper officer role.
Municipal Year	The period between the annual meetings of the Council, which are usually held in May.
Officer	A paid employee of the Council.
Overview and Scrutiny	Committees of the Council with responsibility for scrutinising decisions made in the name of the Council, making reports and recommendations on policy and the discharge of functions and considering

matters which affect the well-being of the District's inhabitants.

Parish Meeting

A meeting at which every local government elector has a vote. Every parish must have a Parish Meeting which must meet at least annually. Parish Meetings discuss local affairs and have power to exercise certain limited functions. They are not Parish Councils.

Petitions

A formal written request, signed by more than one person, appealing to the Council in respect of a particular cause or question.

Policy

A plan of action or approach to an issue.

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

Policy Review

An examination of Policy in relation to a Council function. To establish whether a policy reflects the Council's current obligations, both in law and in relation to the decision-making process. Where no policy exists a review may examine all aspects and formulate a policy for the future decision-making processes.

Proper Officer

A senior officer of the Council who is given a set of responsibilities by statute.

Protocols

Codes of Practice which set out how, for example, various elements of the Council are expected to interact with each other.

Quorum

The minimum number of people who have to be present before a meeting can take place.

Referendum	A ballot of all electors of the District – in particular on whether they wish to have an elected mayor.
Referendum	A ballot of all electors of the District – in particular on whether they wish to have an elected mayor.
Regulatory	The functions of the Council which “regulate” e.g. licensing, planning etc.
Responsibility for functions	Formerly known as the Scheme of Delegation this document (in Part 3 of the Constitution) sets out which committee, councillor or officer is responsible for particular functions of the Council.
Summons	The term used to inform date, time and place of a meeting and specify business to be transacted.
Standards for England	The national body which oversees ethical standards of behaviour. – Abolished by the Localism Act 2011
Statutory	The process of interpreting and applying legislation
Terms of Reference	A written definition setting out the responsibilities and boundaries of a particular forum.
Town Council/ Parish Council/Parish Meeting	A corporate body (in the same way in which the District Council is a corporate body) having precepting powers in its area, and empowerment by statute to undertake certain functions.
Virements	Moving funds from one area of expenditure to another within a financial year.
Ward	An area of the Selby District for which elections are conducted. Each ward elects one, two or three Councillors depending upon its size
Work Programme	Every year each committee will develop and submit to Council for approval, a programme of work. The work programme will include such items as reviews of policy, responses to legislation and constitutional work to define local needs and profiles.

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