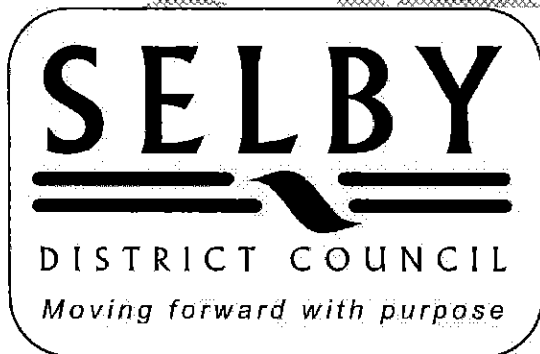


2014

Report of the Audit Committee



Report of the Audit Committee into the Constitution

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Summary

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

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

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

Article 15 of the constitution provides that changes will only be approved by Council after consideration of the proposals by the Executive, taking into account the advice of the Chief Executive or Monitoring Officer. Our review was supported by an Officer team including both the Chief Executive and the Monitoring Officer who was present during our meetings.

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

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

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

The Review Brief

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

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

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

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

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

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

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

Methodology

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

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

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

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

The move to 31 Councillors in 2015

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

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

Regulatory Committees

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

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

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

Overview and scrutiny function

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

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

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

Legislative changes

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

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

A recorded vote is required in the following circumstances:-

- (a) Any vote required to be recorded by law, or*
- (b) Any vote where, before the vote is taken on any matter before Council, any 5 of the Councillors present at the meeting demand that the votes are recorded.*

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

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

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

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

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

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

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

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

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

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

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

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

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

Administrative or Operational Decisions:-

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

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

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

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

Part 1 – Summary and Explanation

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

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

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

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

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

Part 2 – the Articles

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

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

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

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

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

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

Part 3 – Responsibility for Functions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 4 Rules of Procedure

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

Council Procedure Rules

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

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

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

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

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

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

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

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

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

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

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

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

Access to Information Procedure Rules

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

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

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

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

Overview and Scrutiny Procedure Rules

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

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

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

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

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

Officer Employment Procedure Rules

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

Petitions Procedure Rules

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

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

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

Contract Procedure Rules

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

Financial Procedure Rules

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

Community Engagement Forum Procedure Rules

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

Budgetary and Policy Framework Procedure Rules

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

Executive Procedure Rules

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

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

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

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

Part 5 – Codes and Protocols

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

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

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

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

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

Parts 6 and 7

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

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

Conclusions and Recommendations

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

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

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

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

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

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

Our recommendations are set out in the table below: –

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

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

APPENDIX 1



Council Constitution

Selby District Council has approved ~~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).
- Standards Arrangements (Article 9).
- Community Engagement Forums (Article 10).
- Officers (Article 11).
- Joint Arrangements (Article 12).
- Decision-making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

How the Council operates

The Council is composed of 41^[31] councillors elected once every 4 years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors follow a code of conduct to ensure high standards in the way they undertake their duties.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council elects a Leader and the Leader appoints between 2

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

How decisions are made

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader who is elected by the Council and an Executive of between 2 and 9 other councillors whom the Leader appoints. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

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

Overview and scrutiny

There are 3 overview and scrutiny committees who support the work of the Executive and the Council as a whole. They allow the public to have a greater say in Council matters by holding inquiries in public into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council on its policies, budget and service delivery. The Scrutiny Committee also monitors the decisions of the Executive and can call-in a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsiders the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

Community Engagement Forums

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

The Council's staff

The Council has people working for it (called officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and members of the Council.

The Public's rights

Members of the public have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a council tenant, they have additional rights. These are not covered in this Constitution.

The public have a right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- film and record meetings of the Council, the Executive and Committees which are open to the public;
- petition, including the right to petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations when invited to do so by the overview and scrutiny committees;
- find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and the Executive except where the report and background papers are exempt under the Access to Information Procedure Rules;
- complain to the Council about matters which are the Council's responsibility;
- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.



APPENDIX 2



PART 2 - ARTICLES OF THE CONSTITUTION

Article 1 – The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Purpose of the Constitution

The purpose of the Constitution is to

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

1.4 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different

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

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

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Article 2 – Councillors

2.1 Composition and eligibility

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

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

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

2.2 Election and terms of councillors

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

2.3 Roles and functions of all councillors

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

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

- (b) **Rights and duties**

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.4 Conduct

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

2.5 Allowances

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

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Article 3 – The Public and the Council

3.1 The rights of the public

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

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

In addition the public may from time to time:

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

appropriate charge.

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

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

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

3.2 Responsibilities of the public

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

Article 4 – The Council

4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Sustainable Community Strategy
 - Corporate Plan
 - Community Safety Partnership Plan
 - Asset Management Strategy
 - Plans and strategies which together comprise the Local Development Framework
 - Plans and strategies which together comprise the Housing Investment Programme
- (b) **Budget.** The budget includes the allocation of financial resources to different functions, services and projects, established or proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's investments, borrowing requirement, the control of its capital or revenue expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Council

Only the Council will exercise the following functions:

- (a) Electing the Chairman and appointing the Vice-Chairman of the Council.
- (b) Approving, adopting or amending this Constitution unless this has been delegated.
- (c) Approving, adopting or amending the Policy Framework or the Budget and any application to the Secretary of State in respect of any Housing Land Transfer.
- (d) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the Policy Framework or the budget where the Executive is minded to make it in a manner which would be contrary

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

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

4.3 Council meetings

There are three types of Council meeting:

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

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

4.4 Responsibility for functions

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

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

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Article 5 – Chairing the Council

5.1 Role and function of the Chairman

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

5.2 Chairing the Council meeting

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

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

5.3 Ceremonial role

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

Article 6 - Overview and Scrutiny Committees

6.1 Appointment and Purpose

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

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

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

6.2 General roles

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

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

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

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

- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question Members of the Executive and senior officers (defined as Directors and above) about their views on issues and proposals affecting the area; and
- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (f) review and scrutinise the decisions made by the Executive and council officers both in relation to individual decisions and over time;
- (g) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (h) question Members of the Executive and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (i) make recommendations to the Executive and/or appropriate committees or the Council arising from the outcome of the scrutiny process;
- (j) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (k) question and gather evidence from any person (with their consent).

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

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

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

Committees in delivering their approved annual work programmes.

6.3 Proceedings of overview and scrutiny committees

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

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Article 7 - The Executive

7.1 Role

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

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

7.2 Form and composition

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

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

7.3 Leader of the Executive

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

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

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

7.4 Executive Members

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

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

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

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

7.5 Term of Office of replacement Leader or Executive Member

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

7.6 Proceedings of the Executive

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

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

7.7 Delegation of Executive functions to the Chief Executive

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

Article 8 – Regulatory and other committees

8.1 Regulatory and other committees¹

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

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

Planning Committee
Licensing and Appeals Committee

8.2 Other Committees

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

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

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

Article 9 - The Standards ArrangementsCommittee

9.1 Standards ArrangementsCommittee

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

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

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Article 10 – Community Engagement Forums

10.1 Community Engagement Forums (CEFs)

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

10.2 Composition

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

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

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

10.3 Role and Function

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

Article 11 - Officers

11.1 Management structure

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

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

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

11.2 Chief Officers

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

- Chief Executive
- Deputy Chief Executive

11.3 Statutory Posts

The Council has responsibility for designating the following statutory posts:

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

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

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

11.4 'Proper Officer' appointments

The existing 'Proper Officer' appointments are as follows:

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

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

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

11.5 Duties of the Head of Paid Service

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

The Head of Paid Service will report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of those functions and the organisation of officers.

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

11.6 Duties of the Monitoring Officer

The Monitoring Officer will have the following responsibilities:

- (a) to maintain and amend the Constitution as necessary after consultation with the Head of Paid Service subject to the approval of the Council under the provisions of Article 15;
- (b) after consultation with the Head of Paid Service and the Chief Finance Officer, to report to the Council or to the Executive (the latter in relation to an Executive function) if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented if implementation has not already occurred, until the Monitoring Officer's report has been considered;

- (c) to provide support to the Council in order to contribute to the promotion and maintenance of high standards of conduct;
- (d)² 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)³ 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)⁴ 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

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

³ Inserted following approval by the Council on 24 April 2012

⁴ Inserted following approval by the Council on 24 April 2012

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

- (b) to administer the financial affairs of the Council.
- (c) to contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) to provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will also support and advise councillors and officers in their respective roles.
- (e) to provide financial information to the media, members of the public and the community.
- (f) to undertake responsibilities under Section 151 of the Local Government Act 1972.

11.8 Duty to provide sufficient resources

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

11.9 Conduct

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

11.10 Employment

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

11.11 Attendance at Meetings

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

Article 12 – Joint Arrangements

12.1 Joint Committees

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

The Council has the following joint committee arrangements:

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

12.2 Future joint arrangements

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

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

such appointments.

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

12.3 Access to information

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

12.4 Delegation to and from other local authorities

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

12.5 Contracting out

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

Article 13 – Decision-Making

13.1 Principles of decision-making

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

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

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

13.2 Types of decision

- (a) Decisions reserved to the Council.

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

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

13.3 Key decisions

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

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

13.4

Administrative or Operational Decisions:-

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

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

13.4 Decision-making by the Council

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

13.5 Decision-making by the Executive

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

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

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

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

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

13.8 Decision-making by the Community Engagement Forums

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

13.9 Decision-making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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Article 14 – Finance, Contracts and Legal Matters

14.1 Financial management

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

14.2 Contracts

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

14.3 Legal proceedings

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

14.4 Authentication of documents

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

Any contract with a value exceeding £10,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing and where it meets or exceeds the financial limits in the Contract Procedure Rules which require contracts to be under seal, shall be made under the Common Seal of the Council.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or one of its committees or the Executive or in accordance with the Scheme of Delegation will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or some other officer authorised by him/her.

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

Article 15 - Review and Revision of the Constitution

15.1 Duty to monitor and review the Constitution

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

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

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

15.2 Changes to the Constitution

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

15.3 Operative date

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

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.1 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules set out in Part 4 of this Constitution may be suspended by the Council to the extent permitted within those rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules moved without notice shall not be valid unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The Council Procedure Rules may be suspended in accordance with the provisions contained in those Rules.

16.2 Interpretation

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

16.3 Publication

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

Schedule 1: Description of Executive arrangements

The following parts of this Constitution constitute the Executive arrangements:

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

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

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APPENDIX 3



PART 3 - RESPONSIBILITY FOR FUNCTIONS

PART 3 - RESPONSIBILITY FOR FUNCTIONS

PART 3.1 - General

1. Responsibility for decision-making

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

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

2. Principles in decision-making

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

3. Responsibility for functions

Functions fall into the following categories:

COUNCIL(NONE EXECUTIVE) FUNCTIONS

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

"LOCAL CHOICE" FUNCTIONS

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

EXECUTIVE FUNCTIONS

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

4. Decision making which is delegated to Officers

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

PART 3 - RESPONSIBILITY FOR FUNCTIONS

5 Joint Arrangements

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

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

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

6 Delegation To and From Other Local Authorities

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

7 Contracting Out

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

8 Interpretation

In this part of the Constitution:

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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

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

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

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

PART 3.2 Summary Of Responsibilities

COUNCIL (NON EXECUTIVE) FUNCTIONS¹

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

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

¹ Regulation 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

² Licensing Act 2003

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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

LOCAL CHOICE FUNCTIONS³

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

³ Regulation 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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

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

SHARED FUNCTIONS ⁴

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

⁴ Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

⁵ s4 of the Local Government Act 2000

⁶ ss5 and 6 Crime and Disorder Act 1998

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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

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

PART 3.3 - Responsibility For Executive Functions

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

⁷ s54 Town and Country Planning Act 1990 and s15 Planning and Compulsory Purchase Act 2004

⁸ s349 Gambling Act 2005

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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

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

Current standing delegations are set out in Section XX below.

PART 3.4 – Council Functions delegated to Committees

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

3.4.1 PLANNING COMMITTEE

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

PROVIDED THAT

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

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

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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

3.4.2 LICENSING AND APPEALS COMMITTEE

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

*most cases will be determined by the Licensing and Appeals Sub-Committee but an officer may, in consultation with the Chair of the Committee, refer the determination to the full Licensing and Appeals Committee where he/she considers it merits their attention.

3.4.3 LICENSING AND APPEALS SUB COMMITTEE⁹

Consisting of 3 Members of the Licensing and Appeals Committee selected by the Democratic Services Officer and normally including the Chair of Vice Chair of the

⁹ This is sub-committee constituted under the Licensing Act 2003 and political balance is not required

PART 3 - RESPONSIBILITY FOR FUNCTIONS

Licensing Committee

1. To determine applications for licences, provisional statements and certificates (including Review Applications and Variation Applications) under the Licensing Act 2003 where a relevant representation has been made and not withdrawn including the imposition of appropriate conditions.
2. To decide whether to object when the Council is a consultee to a Licensing Act application and not the Authority determining the application
3. To determine an objection to a temporary event notice.
4. To determine applications for licences, provisional statements, certificates and permits (including Review Application and Variation Applications) under the Gambling Act 2005 where a relevant representation has been made and not withdrawn including the imposition of appropriate conditions.
5. Cancellation of club gaming/club machine permits
6. To decide to give a counter notice to a temporary use notice.

PART 3.5 - Overview And Scrutiny Arrangements

The Policy Review Committee, Scrutiny Committee and Audit and Governance Committees will each perform Overview and Scrutiny roles but only the Policy Review Committee and Scrutiny Committee will undertake the Council's statutory Overview and Scrutiny functions.

3.5.1 Policy Review Committee

1. To contribute to the development of the policies contained in the Budgetary and Policy Framework of the Council.
2. To consider and undertake policy reviews referred by the Executive.
3. To propose and undertake an annual programme of work of policy reviews or inquiries into existing Council policy.
4. To consider and comment upon the implications on Selby District of the policies of partner organisations and other agencies delivering public services in the District.

3.5.2 Overview and Scrutiny Committee

1. To scrutinise the performance of the Council and that of its partner organisations and other agencies delivering services within the Selby District.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

2. To exercise the Council's statutory obligations and powers in relation to Overview and Scrutiny.
3. Exercise the right of call-in of decisions and recommendations made but not yet implemented.
4. To issue reports and make recommendations, where appropriate, and in relation to any matters listed above, for consideration by the Council, Executive or the relevant committee of the Council

3.5.3 Audit and Governance Committee

1. To scrutinise and monitor the control systems, procedures and risk management systems operating at the Council.
2. To monitor and report on the effectiveness of the Council's Constitution.
3. To receive reports from the Monitoring Officer on the effectiveness of the Standards Arrangements adopted by the Council.
4. To scrutinise and approve the Council's Annual Governance Statement, statement of accounts, income and expenditure and balance sheet or records of receipts and payments (as the case may be).
5. To be satisfied that the Council's assurance statements, including the Annual Governance Statement, have been properly developed and considered by councillors.
6. To receive the Annual Standards Report prepared by the Monitoring Officer.
7. To receive, but not direct, internal audit service strategy and plan and monitor performance.
8. To receive the annual report of the internal audit service
9. To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
10. To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
11. To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
12. To consider the reports of external audit and inspection agencies

PART 3 - RESPONSIBILITY FOR FUNCTIONS

relating to the actions of the Council.

13. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
14. To review the financial statements, external auditor's opinion and reports to councillors, and monitor management action in response to issues raised by external audit.
15. To issue reports and make recommendations, where appropriate, and in relation to any matters listed above, for consideration by the Council, Executive or the relevant committee of the Council.

PART 3.6 - Community Engagement Forums

1 Purpose

To provide a forum to raise, discuss and consider matters related to the well-being of the Forum's area, particularly, but not exclusively, those matters which are the responsibility of the local government authorities, their partner organisations and other organisations who provide services partly or wholly funded by public funds.

2 Membership

All Selby District ward councillors for the Forum area.

All North Yorkshire County councillors for the Forum area.

Up to 4* representatives from town and parish councils in the Forum area

Up to 4* co-opted members of the community.

* or another number agreed by the CEF Partnership Board.

3 Functions

1. To contribute to the achievement of the aims and objectives of the Selby and North Yorkshire Strategic Partnership and the development and delivery of the Selby District Sustainable Community Strategy.
2. To assess and make recommendations to the appropriate budget holder for the allocation of funds from the budget made available by the Council to each CEF.

PART 3.7 - JOINT COMMITTEES

3.7.1 BUILDING CONTROL PARTNERSHIP

Purpose

To work in partnership with the other member Councils for the delivery of a Building Control Service in accordance with the terms of the Partnership Agreement.

Membership

2 Selby District councillors and 2 councillors each from the other member Councils

3.7.2 NORTH YORKSHIRE PROCUREMENT PARTNERSHIP

Purpose

To work in partnership with the other member Councils for the delivery of a shared Procurement Service in accordance with the terms of the Partnership Agreement.

Membership

1 Selby District Councillor, 1 councillor each from Ryedale District and Scarborough Borough Councils

3.7.3 LEEDS CITY REGION LEADERS BOARD

Purpose

To develop an internationally recognised city region;
To raise economic performance;
To spread prosperity across the whole of the city region; and
To promote a better quality of life for all of those who live and work in the city region.

Membership

1 Selby District Councillor and 1 Councillor from each of the other member Councils

Full membership details, Terms of Reference, functions and rules governing the conduct and proceedings of meetings can be obtained via the Leeds City Region Local Enterprise Partnership

3.7.4 NORTH YORKSHIRE POLICE AND CRIME PANEL

PART 3 - RESPONSIBILITY FOR FUNCTIONS

Purpose

The North Yorkshire Police and Crime Panel is a joint committee established and maintained in accordance with the Police Reform and Social Responsibility Act 2011

The Police and Crime Panel discharges statutory functions set out in the 2011 Act.

Membership

Craven District Council, Hambleton District Council, Harrogate Borough Council, North Yorkshire County Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council and Selby District Council will each appoint one councillor as a member of the panel; and City of York Council will appoint two councillors

PART 3.8 - CONSULTATIVE COMMITTEES

Access Selby Board

Purpose

The Access Selby Board will assist in delivering a business which is commercially focussed but which operates under the statutory framework which regulates local government and in accordance with the Constitution of Selby District Council and the Rules of Procedure contained therein.

All decisions of the Board will be given effect using the existing delegations to officers or by way of report and recommendation to the appropriate decision-making body of the Council.

Membership

Non-Executive Directors

3 councillors (voting members)
1 co-opted member (non voting)

Executive Directors

2 officers (non voting)

Specific Functions

1. To advise on the strategic direction of the business within the budget and policy framework of Selby District Council.

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2. To monitor performance in achieving the business's key financial objectives.
3. To report on the activities of Access Selby to the Council, the public and other stakeholders.
4. To consider emerging issues which may be material to the business and affairs of Access Selby.
5. To receive and consider proposals for joint ventures, strategic partnerships and alliances which are significant in terms of the business of Access Selby.
6. To receive regular Business and Financial Reports and review performance in the light of the business's strategy, objectives, corporate and business plans, budgets and policies.
7. To receive and consider Access Selby's procedures for reviewing, monitoring and managing risk.
8. To receive and consider high level reports on matters material to the business including relations with regulatory authorities, human resources, information technology, insurance, disaster recovery, litigation and health and safety.

PART 3.9 - OFFICER DELEGATION SCHEME

3.9.1 General

- (a) Councillors set policy priorities and strategies to reflect local interests and needs and are also responsible for allocating funding between individual priority areas. The Chief Executive, Deputy Chief Executive, Executive Directors and Access Selby Directors and their staff implement these strategies and policies. It is officers therefore, who have responsibility for managing the Council's day to day operations, within a policy and budgetary framework laid down by Councillors.
- (b) Under the executive arrangements adopted by the Council, both full Council and the Executive have specific functions and many of these can be delegated to committees or officers. Where Council or the Executive have established a committee to discharge their respective functions then subject to any limitations imposed by the Council/Executive respectively, that committee can also delegate its functions to an officer.
- (c) The functions delegated to officers by the Executive are set out in the delegations to officers in Part XX below
- (d) The functions delegated to officers in relation to Council functions are set out in Part xx below.

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3.9.2 General conditions applying to all delegated powers:

- (a) Functions must be discharged by officers in the manner set out below and at all times in accordance with:
 - (i) the Constitution of the Council;
 - (ii) any relevant policies, directions, rules of procedure and codes of practice of the Council;
 - (iii) approved budgets; and
 - (iv) decisions of the Executive and Council and their committees.
- (b) The Council can, without prejudice to any action already taken, amend or revoke this scheme of delegation at any time (in accordance with the arrangements for amending this Constitution as set out in Article 15);
- (c) Named officers may arrange for functions to be discharged by others, but will remain accountable for those functions. Where such further delegation takes place the relevant authorisation shall be set out in writing.
- (d) An officer shall not incur, nor commit the Council to, any expenditure for which there is no budget provision, or for which specific approval is required and has not been received, except in an emergency. In such circumstances, the agreement of the Leader of the Council and the Executive Director with s. 151 responsibilities will first be obtained, and the circumstances subsequently reported to the Executive.
- (e) Any matter which, in the judgement of the officer exercising powers under this Scheme, is likely to give rise to unusual difficulty, or the circumstances of which are likely to give rise to controversy or other extraordinary consideration, shall be dealt with only after consultation with the Leader of the Council, appropriate Executive Councillor or Committee Chair.
- (f) Notwithstanding the provisions of this Scheme, the officer may bring before the Executive or appropriate committee for determination any matter which, having regard to his or her knowledge and understanding of the circumstances, should more appropriately be decided by the Executive or decision making body or which involves questions of policy not yet determined by the Council.
- (g) An Executive Councillor may request that an officer refrains from exercising a delegated executive authority in respect of a particular matter and refer it instead to the Executive, for a decision. The Officer shall have regard to this request before deciding how to proceed.

- (h) Any reference within this Scheme to 'Chair' shall be taken to apply to the Vice-Chair where contact with the Chair cannot be made.
- (i) Delegated powers shall include the carrying out of all duties and powers covered by the function including administrative and procedural acts, the exercising of discretion and the making of determinations.

3.9.3 Specific Functions delegated to the Chief Executive

- (a) To act as Head of Paid Service for the Council and in particular:
 - (i) to have authority over all other officers (except the Monitoring Officer and the Section 151 Officer when either act in that capacity);
 - (ii) to formulate employment practices and procedures; and
 - (iii) to deal with routine matters of day-to-day administration, management and control of matters which are necessary for the proper performance of the Chief Executive's terms of appointment.
- (b) To exercise all the functions of the Proper Officer of the Council under all legislation in relation to both executive and non-executive functions except where that legislation or this Scheme delegates such functions to another named officer.
- (c) To formulate and co-ordinate professional advice to all parties in the decision-making process and, in particular, to advise on strategic and corporate policy and to ensure that appropriate arrangements are in place to give effect to the strategies, plans and policies of the Council.
- (d) To sign on behalf of the Council any document necessary to give effect to any decision of the Council in relation to both executive and non-executive functions.
- (e) To act as the authorised representative of the Council in respect of (1) its membership of any limited company to give effect to any decision of the Council in relation to executive functions or (2) any partnership or (3) any external bodies which are required by statute or the Council.
- (f) To undertake all functions relating to elections and electoral registration.
- (g) Under the Data Protection Act 1998 and Freedom of Information Act 2000, and guided by the Access to Information Procedure Rules, to

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decide appeals as to whether applications by councillors for access to material should be refused.

- (h) To amend the approved establishment and staffing structure, provided any changes are consistent with the budget and policy framework.
- (j) To discharge any function of the Council not otherwise delegated to Chief Officers, Directors or other named officers.
- (k) Limits, controls and conditions
 - (i) After consultation with the Leader of the Council:
 - to exercise all the Council's functions in emergency or urgency situations which, in the Chief Executive's opinion, seriously affect the functions of the Council and/or the well-being of the Council's area; and
 - to receive and consider proposals for the Executive's Forward Plan and annual work programmes of committees and make recommendations on those work programmes to the Council.
 - (ii) After consultation with the relevant Group Leader to authorise any amendments or changes to the appointment of councillors and substitute councillors to committees or outside bodies.
 - (iii) After consultation with the Executive Director with s.151 responsibilities to approve supplementary estimates up to and including £10,000 (up to an overall limit of £50,000 in any one year) and to report details of all such approvals to the Executive on a quarterly basis.

31.3 Specific Functions delegated to the Deputy Chief Executive

- (a) After consultation with the Leader of the Council and in the absence of the Chief Executive or when the Chief Executive is unable to act in that capacity:
 - (i) to exercise all the Council's functions in emergency or urgency situations which, in the Deputy Chief Executive's opinion, seriously affect the functions of the Council and/or the well-being of the Council's area.

3.9.4 Specific Functions Delegated to the Monitoring Officer

- (a) To be the proper officer to receive complaints of failure to comply with the local Councillor Code of Conduct;

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- (b) To take all of the actions necessary to implement and operate the arrangements adopted from time to time by the Council for dealing with complaints of failure to comply with the local Councillor Code of Conduct;
- (c) To prepare and maintain a register of councillors interests to comply with the requirements of the Localism Act 2011 and the Council's Code of Conduct, and ensure that it is available for inspection as required by the Act
- (d) To prepare and maintain registers of councillors' interests for each Town and Parish Council to comply with the Act and any Code of Conduct adopted by each Town or Parish Council and ensure that it is available for inspection as required by the Act;
- (e) To grant dispensations from the rules concerning councillor interests
- (f) To determine requests for councillors' interests to be considered and dealt with as sensitive interests
- (g) To make administrative and consequential changes to the Constitution to reflect legislative changes, or changes to names, titles or designations but which do not alter the purpose or intent of this Constitution.
- (h) To deal with complaints (including complaints relating to maladministration) and to authorise without prejudice payments or other benefits up to a value of £1000
- (i) To deal with routine matters of day-to-day administration, management and control within the remit of the Monitoring Officer responsibilities or matters which are necessary for the proper performance of the Monitoring Officer's responsibilities' terms of appointment.

3.9.5 Specific Functions delegated to the Executive Director with s.151 responsibilities

- (a) To have operational control of the Council's finances and to act as financial adviser to the Council, Executive and committees.
- (b) To undertake all of the Council's functions in connection with:
 - (i) Section 151 of the Local Government Act 1972
 - (ii) Accountancy (including banking)
 - (iii) Investments, borrowing and financing
 - (iv) Insurances
 - (v) Housing and Council Tax Benefits
 - (vi) Council Tax, NNDR and other Revenues

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- (vii) Internal Audit (including matters arising from the Internal Audit Partnership)
 - (viii) Debtors and Creditors
 - (ix) The Collection Fund
 - (x) Investigation of fraud and financial impropriety
 - (xi) The control of funds and reserves
 - (xii) Central administration
 - (xiii) Risk Management
 - (ix) Information Governance
 - (x) Performance and Improvement Management
- (c) To deal with routine matters of day-to-day administration, management and control within the remit of the Executive Director with s.151 responsibilities or matters which are necessary for the proper performance of the Executive Director with s.151 responsibilities' terms of appointment.
- (d) Limits, controls and conditions
- (i) Where satisfied that recovery is not economically possible, to write off as irrecoverable, any debt, charge, penalty or arrears owing to the Council up to an amount of £10,000 in each case and to write off amounts over £10,000 only after consultation with the Leader of the Council (or the Lead Member for Finance in the Leader's absence).
 - (ii) To authorise expenditure arising in the case of emergencies/ disasters of up to £20,000 under Section 38 of the Local Government Act 1972, subject to a report back to the Executive.
 - (iii) To grant ex gratia payments of up to £300 in appropriate circumstances to staff suffering loss in the course of their duties that is not covered by insurance.
 - (iv) After consultation with the Chief Executive, to administer the operation of the Car Loan Scheme, in accordance with Council Policy for all officers within the Scheme (except in the case of a car loan for the Chief Executive when there shall be prior consultation with the Leader of the Council).

3.9.6 General (executive and non-executive) Functions delegated to all Chief Officers and Executive Directors

- (a) To undertake all of the Council's functions in connection with:
- (i) Corporate Policy Development
 - (ii) Community Safety
 - (iii) Community Engagement and Consultation
 - (iv) Corporate and Strategic Commissioning

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- (v) Strategic Partnerships
- (b) To deal with routine matters of day-to-day administration, management and control within the remit of the Directors or matters which are necessary for the proper performance of the Directors' terms of appointment.
- (c) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (d) Within the budget and policy framework to recruit, manage and, where necessary, dismiss staff under their control and in particular:
 - (i) to authorise pay and conditions (including honoraria);
 - (ii) to undertake disciplinary proceedings;
 - (iii) to defend and, if necessary (and subject to the approval of the Executive Director with s.151 responsibilities if it involves claiming on the Council's insurance), settle any claims made against the Council following consultation with the Solicitor to the Council;
 - (iv) to be responsible for the health and safety at work of staff;
 - (v) to implement all employment policies, practices and procedures;
 - (vi) to operate the Council's Grievance, Disciplinary and Competency Procedures;
 - (vii) to authorise appropriate changes to post titles; and
 - (viii) to issue and revise statutory authorities to officers.
- (e) To acquire, dispose of, grant and obtain rights in land, premises, vehicles and other equipment and property for the purposes of delivering the Council's functions on such terms and conditions as are considered appropriate.
- (f) To provide, procure, and commission goods and services and to undertake, procure and commission works.
- (g) After consultation with the Solicitor to the Council, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.
- (h) To provide grants and other financial assistance.
- (i) After consultation with the Chief Executive, to authorise the issuing of an essential variation order which would increase the contract sum where delay would substantially increase the cost.
- (j) To decide (after consultation with the Solicitor to the Council where

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necessary) the response to Freedom of Information and Environmental Information requests

- (k) To deal with complaints (including complaints relating to maladministration)
- (j) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental Information requests

3.9.7 Functions delegated to Access Selby

General Delegations to Directors of Access Selby

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Directors or matters which are necessary for the proper performance of the Directors' terms of appointment.
- (b) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (c) Within the budget and policy framework to recruit, manage and, where necessary, dismiss staff under their control and in particular:
 - (i) to authorise pay and conditions (including honoraria);
 - (ii) to undertake disciplinary proceedings;
 - (iii) to defend and, if necessary (and subject to the approval of the Executive Director with s.151 responsibilities if it involves claiming on the Council's insurance), settle any claims made against the Council following consultation with the Solicitor to the Council;
 - (iv) to be responsible for the health and safety at work of staff;
 - (v) to implement all employment policies, practices and procedures;
 - (vi) to operate the Council's Grievance, Disciplinary and Competency Procedures;
 - (vii) to authorise appropriate changes to post titles; and
 - (viii) to issue and revise statutory authorities to officers.
- (d) To acquire, dispose of, grant and obtain rights in land, premises, vehicles and other equipment and property for the purposes of delivering the Council's functions on such terms and conditions as are considered appropriate.
- (e) To provide, procure, and commission goods and services and to undertake, procure and commission works.
- (f) After consultation with the Solicitor to the Council, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.

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- (g) To provide grants and other financial assistance.
- (h) After consultation with the Chief Executive, to authorise the issuing of an essential variation order which would increase the contract sum where delay would substantially increase the cost.
- (i) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental Information requests
- (j) To determine whether applications by councillors for access to material should be refused.
- (k) To deal with complaints (including complaints relating to maladministration)

General Delegations to Business Managers

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Business Manager or matters which are necessary for the proper performance of the Business Managers' terms of appointment.
- (b) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (c) Within the budget and policy framework to recruit, manage and, where necessary, dismiss staff under their control and in particular:
 - (i) to authorise pay and conditions (including honoraria);
 - (ii) to undertake disciplinary proceedings;
 - (iii) to defend and, if necessary (and subject to the approval of the Executive Director with s.151 responsibilities if it involves claiming on the Council's insurance), settle any claims made against the Council following consultation with the Solicitor to the Council;
 - (iv) to be responsible for the health and safety at work of staff;
 - (v) to implement all employment policies, practices and procedures;
 - (vi) to operate the Council's Grievance, Disciplinary and Competency Procedures;
- (d) To provide and commission goods and services and to undertake and commission works.
- (e) After consultation with the Solicitor to the Council, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.
- (f) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental

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Information requests

- (g) To deal with complaints (including complaints relating to maladministration)

General delegations to Lead Officers

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Lead Officer or matters which are necessary for the proper performance of the Lead Officers' terms of appointment.
- (b) To undertake the day-to-day management of the services and functions for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- (c) Within the budget and policy framework to recruit and manage staff under their control and in particular:
 - (i) to be responsible for the health and safety at work of staff;
 - (ii) to implement all employment policies, practices and procedures;
 - (iii) to operate the Council's Grievance, Disciplinary and Competency Procedures;
- (d) To exercise statutory powers of entry and inspection for the purposes of any function performed by his/her service area.
- (e) To authorise any of his/her staff to exercise statutory powers of entry and inspection for the purposes of any function performed by his/her service area.
- (f) To serve requisitions for information as to ownership, occupation or other interest in land for the purposes of any of the functions performed by his/her service area.
- (g) To authenticate any documents necessary for the exercise of any function performed by his/her service area.
- (h) To sign Statements of Truth in civil proceedings as required by the Civil Procedure Rules 1998.
- (i) To decide (after consultation with the Solicitor to the Council where necessary) the response to Freedom of Information and Environmental Information requests
- (j) To deal with complaints (including complaints relating to maladministration)
- (k) To administer formal cautions within the Guidelines set out in Home Office Guidance

Specific Executive Delegations to Directors, Business Managers and Lead Officers within Access Selby.

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The Officers listed in column 2 of the Table below/overleaf may exercise the functions set out in column 1 subject to the limits and controls listed in Column 3

Function	Delegation	Limits/Controls
Housing Functions including; housing management, tenant relations, Right to Buy, homelessness, Supporting people	Access Selby Directors Business Managers Lead Officers Environmental Health and Housing, Community Support and Debt Control and Enforcement	Subject to compliance with the financial and contract procedure rules
Contract Management and Procurement Services including Commercial Procurement , Leisure and Parks, Waste Disposal and Recycling (incl Commercial Waste), Street Cleansing, Pest Control, Countryside management	Access Selby Directors Business Managers Lead Officers Contracts, Assets,	Subject to compliance with the financial and contract procedure rules
Asset Management including property management and repair, disposal and acquisition of property, car parks, Public Conveniences, Grounds Maintenance	Access Selby Directors Business Managers Lead Officers Assets, Contracts Debt Control and Enforcement and Community Support.	Subject to compliance with the financial and contract procedure rules
Environmental Health including public health, environmental protection, public nuisance, street scene, Health and Safety at Work, Food Sales, Safety and Standards, Shops and Sunday Trading, Animals, Rivers, Watercourses and Land	Access Selby Directors Business Managers Lead Officers Environmental Heath and Housing, Debt Control and Enforcement and	Subject to compliance with the financial and contract procedure rules

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<p>Drainage, Cemeteries, Crematoria and Burials, Emergency Planning and Civil Contingencies Act and Private Sector Housing Conditions, Improvement and Renovation</p>	<p>Community Support.</p>	
<p>Business Services including (i) HR Policy, Procedure and Codes of Practice (ii) Equalities and Diversity (iii) Workforce development (iv) Training and development (v) Job evaluation (vi) Pay, benefits and conditions of service (vii) Work placements, secondments and work experience (viii) Customer Services</p>	<p>Access Selby Directors Business Managers Lead Officer HR Access Selby Directors Business Managers Lead Officers Community Support and Business Support</p>	
<p>(ix) Media Relations and Communications (x) Information and communication technologies and services</p>	<p>Access Selby Directors Business Managers Lead Officer Communications Access Selby Directors Business Managers Lead Officer Data and Systems, IT Shared Services</p>	

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(xi) Safeguarding	Manager Access Selby Directors Business Managers Lead Officer Assets	
(xii) Financial	Business Managers Lead Officer Debt Control and Enforcement	Up to a value of £1000

3.9.8 Specific Officer Delegations for Non Executive (council) functions

Planning and Development Management

The Director of Community Services and the Lead Officer – Planning are authorised concurrently to carry out the following functions

- (a) All functions relating to Town and Country Planning and development management as specified in Section A of Schedule 1 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force including enforcement and all powers under planning legislation to obtain information as to interests and particulars of persons interested in land.
- (b) To further sub-delegate in writing these functions to Officers within his/her service subject to the limits and controls set out below and to any additional limits and controls as he/she considers appropriate.
- (c) Limits, controls and conditions

This delegation is limited and shall not apply to:

- (i) Any application which is accompanied by an Environmental Impact Statement.
- (ii) Any application which is defined as a significant departure from the adopted development plan as identified in planning circular 02/09 or in any successor document (see definition below) and where officers wish to approve the development.
- (iii) Any major or minor applications which are recommended to be approved contrary to the requirements of the Development Plan.
- (iv) Any application made by or on behalf of a District Councillor or his/her partner.

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- (v) Any application made by any employee within the planning service or any employee of the Council of Principal Officer grade or above (or the partner of any such employee).
- (vi) Any major or minor application where 3 or more consultees object to a planning application and where officers would otherwise determine the application contrary to the specific representations raised by those consultees.
- (vii) Any major or minor application where 10 or more letters of representation are received which in the view of a Director raise material planning considerations and where officers would otherwise determine the application contrary to these representations.
- (viii) Any application which the ward councillor for the area where the proposal lies requests to be heard by the committee in writing within 21 days of the publication of the application in the weekly list and where the request gives valid material planning reasons for doing so. For the avoidance of doubt, matters such as the loss of a view, loss in value of a property or comments such as 'to allow this matter to be heard in the public arena' are not valid material planning considerations.
- (ix) Any proposed tree preservation order which is the subject of a valid objection.

(c) Definitions

Significant departures are defined as following in circular 02/09 where the Local Planning Authority wishes to approve the proposal in terms of the following:

- (i) Inappropriate development on land allocated as Greenbelt in an adopted plan or development plan document which consists of:
 - (a) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more:

OR

 - (b) Any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Greenbelt.
- (ii) Development which includes or consists of retail, leisure or office use and which:

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- (a) Is to be carried out on land which is edge of centre, out of centre or out of town; **AND**
- (b) Is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; **AND**
- (c) Consists of or includes the provision of a building or buildings where the floor space to be created by the development is:
- 5,000 square metres or more; **OR**
 - Extensions of new development of 2,500 square metres or more which when aggregated with existing floorspace, would exceed 5,000 square metres.
- (iii) Development having an adverse impact on the outstanding universal value, integrity, authenticity and significance of world heritage sites or their setting, including any buffer zone or its equivalent, and being development to which English Heritage has objected to and that objection not having been withdrawn.
- (iv) Playing field development where the land subject of the application:
- (a) Is land of a local authority; **OR**
- (b) Is currently used by an educational institution as a playing field; **OR**
- (c) Has at any time in the 5 years before the application is received been used by an education institution as a playing field; **AND**
- (d) Sport England has been consulted and has objected on one or more of the following grounds:
- That there is a deficiency in the provision of playing fields in the area of the Local Planning Authority;
 - That the proposed development would result in such a deficiency; **OR**
 - That the proposed development involves a loss of playing field and an alternative or replacement playing field is proposed, that alternative or replacement does not match (whether in quantity,

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quality or accessibility) that which would be lost.

- (v) Major development in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw even after discussion with the Local Planning Authority.
- (d) Major applications are defined as follows:
- ten (10) or more units of residential accommodation
 - new commercial development over 1,000 square metres
 - change of use over 1,000 square metres
 - amendment or removal of a condition relating to a major development
 - site area exceeding 0.5 hectares where it is not known how many dwellings are to be created
 - development site area is one (1) hectare or more
- (e) Minor applications are defined as follows:
- Residential - 1-9 units (including change of use) or less than 0.5 hectare site area
 - Non-residential - 50-1,000 square metres floorspace or less than one (1) hectare site area
- (f) Others applications are defined as follows:
- Changes of use
 - Householder Development
 - Advertisements
 - Listed building consents (to demolish and alter/extend)
 - Conservation Area Consents
 - Certificate of Lawful Development

Licensing Functions

The Lead Officers for Housing and Environmental Health and Enforcement are concurrently authorised to carry out the licensing and enforcement functions of the Council relating to

- (a) Taxi, food and miscellaneous licensing, health and safety and certain deposits on the highway as set out in Sections B, C and I(22) of Schedule 1 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force
- (b) Contaminated land, control of pollution and the management of air quality as set out in Schedule 2 of the Local Authorities (Responsibilities for Functions) (England) Regulations 2000 as from time to time in force

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- (c) Decisions as to the revocation of HMO licences under the Housing Act 2004
- (d) Smoke free premises under the Health Act 2006.
- (e) Motor salvage and scrap metal
- (f) Functions under the Licensing Act 2003 including applications for and variations to premises licences, club premises certificates and provisional statements where a relevant representation has been made and not withdrawn and imposing appropriate conditions*
- (g) Licensing functions under the Gambling Act 2005
- (h) Limits and Controls

Licences and registrations may be issued, under delegated authority, but not refused.

to forward the observations of the Council to the Environment Agency in connection with the licensing of Disposal Sites only following consultation with the Ward Councillor(s);

13 Functions delegated to the Solicitor to the Council

- (a) To undertake all of the Council's functions in connection with:
 - (i) Local Authority Legal Services
 - (ii) Local Land Charges and Searches/Enquiries
 - (iii) Community Legal Service
 - (v) Data Protection and Freedom of Information
 - (vi) National Assistance Act 1948 and subsequent legislation
- (b) To deal with routine matters of day-to-day administration, management and control within the remit of the Solicitor to the Council or matters which are necessary for the proper performance of the Solicitor to the Council's terms of appointment.
- (c) To institute, defend, participate in or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, ensure the implementation of Council policy or to protect the Council's interests, including issuing instructions to Counsel.
- (d) To authenticate any documents necessary for the exercise of any function of the Council
- (e) To sign Statements of Truth in civil proceedings as required by the Civil Procedure Rules 1998.

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- (d) Limits, controls and conditions
 - (i) To settle legal disputes after consultation with the appropriate Director up to a value of £25,000

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APPENDIX 4



COUNCIL PROCEDURE RULES

1. Annual Meeting of the Council

1.1 Timing and Business

The Annual Meeting of the Council shall be held:

- (a) in a year when there is an ordinary election of councillors, on the eighth day after the retirement of councillors or on such other day within 21 days immediately following the retirement of the outgoing councillors, as the Council may fix;
- (b) in any other year, on such day in the month of May as the Council may fix.

The order of business at the Annual Meeting will be:

- (a) if the Chairman and Vice-Chairman are absent, to choose a person to preside, such person not being a member of the Executive;
- (b) to elect a Chairman and appoint a Vice-Chairman;
- (c) to approve the minutes of the last meeting;
- (d) to receive any announcements or communications from the Chairman and/or the Chief Executive;
- (e) to elect the Leader of the Council only where the Leader's term of office has expired or where the office of Leader is vacant;
- (f) to note the Members of the Executive as appointed by the Leader of the Council (only when the Members of the Executive's terms of office have expired or where there is a vacancy amongst the members of the Executive);
- (g) to appoint committees and to appoint Chairs and Vice-Chairs of committees in accordance with 1.2 below;
- (h) other business specified in the agenda.

1.2 Selection of councillors on committees and outside bodies

At the Annual Meeting, the Council will appoint the Standing Committees of the Council. The Standing Committees of the Council will be:

- Planning Committee – 12 [10] councillors
- Licensing and Appeals Committee -10 councillors
- Policy Review Committee – 9 [7] councillors
- Scrutiny Committee - 9 [7] councillors

- Audit Committee – 9 [7] councillors

The Council will also appoint Substitute Members to the Standing Committees who may exercise the powers set out in Rule 28 of these Rules.

Seats on committees shall be distributed among the political groups in proportion to their membership on the Council. Before the Annual Meeting of the Council, and at any other time that a review of the allocation of seats is required, the Chief Executive shall consult Group Leaders on the membership of committees and report to the Annual or next following meeting of the Council. Such consultations and report shall determine the allocation to the different political groups and recommend such appointments to give effect to the wishes of the political groups.

A political group shall contain a minimum of 2 councillors in order to be recognised for proportionality. The group leaders will notify the Chief Executive in writing of the membership of each group.

The Council shall also appoint the Chairs and Vice-Chairs of each Standing Committee and each Community Engagement Forum Partnership Board in accordance with the provisions of this Constitution.

The Council will appoint representatives to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable by the Executive.

1.3 Dissolution of Committees and Sub-Committees

Any Committee or Sub-Committee may be dissolved by the Council at any time save that the Council must have at least one Overview and Scrutiny Committee.

2. Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme to be fixed by the Council. Ordinary meetings will:

- (a) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from councillors;
- (d) receive any communications which have been submitted before 5 pm on the day before a meeting, (except in the case of an emergency which will be determined by the Chief Executive), that the Chairman, Leader or Chief Executive may wish to give councillors;
- (e) receive any announcements from the Chairman, Leader, Members of

the Executive or the Chief Executive;

- (f) deal with any business required by statute to be done;
- (g) receive any reports from statutory officers of the Council;
- (h) receive petitions;
- (i) dispose of business (if any) remaining from the last meeting;
- (j) receive questions from and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting (see Rule 10.1);
- (k) receive and answer questions submitted by councillors, in accordance with Rule 11.2;
- (l) receive reports from the Executive and/or Leader and receive questions and provide answers on any of those reports;
- (m) receive reports from the Council's committees and receive questions and provide answers on any of those reports;
- (n) receive reports about and receive questions and provide answers on the business of joint arrangements and external organisations;
- (o) consider motions; and
- (p) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework.

3. Extraordinary Meetings

3.1 Calling Extraordinary Meetings

The Chief Executive may call an Extraordinary Meeting of the Council. In addition those listed below may request the Chief Executive to call Council meetings in addition to Ordinary meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Leader;
- (d) the Monitoring Officer;
- (e) Chief Finance Officer; and

- (f) any 5 ~~[4]~~ councillors if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or
- has failed to call a meeting within 7 clear working days of the presentation of the requisition.

3.2 Business

An Extraordinary meeting of the Council shall consider only such items of business as may be specified in the request for the meeting.

4. Time and place of meetings

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

5. Notice of and summons to meetings

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least 5 clear working days before a meeting, the Chief Executive will send a summons signed by him or her to every councillor or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. Chairman of meeting

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

7. Quorum

The quorum of a meeting will be one quarter of the whole number of Members entitled to attend. During any meeting if the Chairman counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next Ordinary meeting.

8. Quorum of committees

The quorum for a committee is one quarter of the whole number of the committee but shall not be less than ~~three~~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 to a question under Rule 11.1, 11.2 and 11.3 may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer

circulated later to all councillors.

11.6 Supplementary question

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

12. Petitions

The Council will determine how to deal with or otherwise respond to the petition in accordance with the Petitions Procedure Rules set out in Part 4 of this Constitution.

13. Motions on notice

13.1 Notice

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by at least 5 councillors, must be delivered to the Chief Executive at least 7 clear working days before the date of the meeting.

13.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

13.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District and should not concern a matter that has been before Council within the preceding 6 months.

13.4 Reference of motion to Executive or committee

Motions for which notice has been given under 13.1 shall, upon being moved and seconded, stand referred to the Executive or committee as the Council may determine for consideration and report, unless the Chairman considers it convenient and conducive to the dispatch of business to allow the motion to be dealt with at the meeting at which it is brought forward.

Where a motion stands referred, the mover shall not speak until the report on the motion comes before the Council. The Executive or committee shall report back to the next Ordinary meeting of the Council or such other meeting as it may advise, and the report shall advise the Council whether or not the motion should be adopted or give such other advice as is appropriate.

14. Motions without notice

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or councillor arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to hold a recorded vote;
- (j) to proceed to the next business;
- (k) to put a question to the vote;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to continue the meeting beyond 3 hours in duration – see Rule 9;
- (o) to extend the time limit for questions or speeches;
- (p) to suspend a particular Council Procedure Rule;
- (q) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (r) to not hear further a councillor named under Rule 23.3 or to exclude them from the meeting under Rule 23.4; and
- (s) to give the consent of the Council where its consent is required by this Constitution.

15. Rules of debate

15.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

15.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

15.3 Secunder's speech

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

15.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. The time limit is not applicable to the annual 'State of the Area Address', the Budget Speech and budget proposals by the opposition or the responses given to them. The Chair's statement at committee shall not exceed 10 minutes.

15.5 When a councillor may speak again

A councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another councillor;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply (see Rule 15.9);
- (e) on a point of order (see Rule 15.12); and
- (f) by way of personal explanation (see Rule 15.13).

15.6 Amendments to motions

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

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

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

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved, provided notice thereof is given before debate on the previous motion is closed.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will accept any further amendments, or if there are none, put the substantive motion to the vote.
- (f) For the purposes of this paragraph, the debate shall be deemed to be closed when the mover of the motion starts to reply to the debate.

15.7 Alteration of motion

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

15.8 Withdrawal of motion

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

withdraw.

15.9 Right of reply

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

15.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) to put the question to the vote;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to continue the meeting beyond 3 hours in duration – (Rule 9 above refers);
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (i) to not hear further a councillor named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

15.11 Closure motions

- (a) A councillor may move, without comment, the following motions at the end of a speech of another councillor:
 - (i) to proceed to the next business;
 - (ii) to put the question to the vote;
 - (iii) to adjourn a debate; or

- (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion to put the question to the vote is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

15.12 Point of order

A councillor may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

15.13 Personal explanation

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

16. State of the Area Address

(a) Nature of Address

The Leader will make a 'State of the Area Address' annually on a date and in a form to be agreed, normally at the June Council meeting.

(b) Form of Address

The Leader will decide the form of the Address, with the aim of enabling the widest possible public discussion and publicity. This may include holding workshops and other events. The Leader will also attend the first convenient meeting of the ⁴Policy Review Committee

⁴ Amendment agreed at Council on 13 December 2011 for implementation on 1 January 2012

after the Address has been given to Council, answer questions on the Address, and consider the formal response of that committee in due course.

(c) Results of consequent discussions and deliberations:

The results will be:

- (i) reported to the Policy Review Committee;
- (ii) disseminated as widely as possible within the community and to agencies, organisations and the Council's key partnerships; and
- (iii) used as the basis for the proposed budgetary and policy framework which the Leader proposes to Council for the coming year.

17. Themed debate

The agenda for an Ordinary meeting of the Council may contain an item for consideration of a particular theme or subject on any matter within the Council's powers or duties or which affects the District. The Chairman may move that the Council Procedure Rules be suspended (in accordance with Rule 25.1 (Suspension) and Rule 25.2 (Amendment of Council Procedure Rules) to enable a speaker (who need not be a councillor) to address the Council on the theme or subject, and to deal with questions or comments either from councillors or from the public.

18. Previous decisions and motions

18.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Council within the past 6 months cannot be moved unless the notice of motion is signed by at least 7 [5] councillors.

18.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past 6 months cannot be moved unless the notice of motion or amendment is signed by at least 7 [5] councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for 6 months.

19. Voting

19.1 Majority

Unless this Constitution and the law provides otherwise, any matter will be decided by a simple majority of those councillors present and voting in the

room at the time the question was put.

19.2 Chairman's casting vote

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

19.3 Show of hands

Unless a recorded vote is demanded under Rule 19.4, the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

19.4 Recorded vote

~~If 6 of the councillors present at the meeting demand it the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.~~

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

A recorded vote is required in the following circumstances:-

(a) Any vote required to be recorded by law², or

(b) Any vote where, before the vote is taken on any matter before Council, any 6 [5] of the Councillors present at the meeting demand that the votes are recorded.

19.5 Right to require individual vote to be recorded

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

19.6 Voting on appointments

If there are more than 2 people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. This principle will also apply where there is more than one

² The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 introduced a requirement for recording votes on budget meetings

position to be filled and there are more nominees than positions.

20. Minutes

20.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

20.2 No requirement to sign minutes of previous meeting at Extraordinary Meeting

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

20.3 Form of minutes

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

21. Record of attendance

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

22. Exclusion of public

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 24 (Disturbance by the public).

23. Councillors' conduct

23.1 Standing to speak

When a councillor speaks at the Council meeting they must stand and address the meeting through the Chairman. If more than one councillor stands, the Chairman will ask one to speak and the others must sit. Other councillors must remain seated whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

23.2 Chairman standing

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

23.3 Councillor not to be heard further

If a councillor persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

23.4 Councillor to leave the meeting

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

23.5 General disturbance

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

24. Disturbance by the public

24.1 Removal of a member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

24.2 Clearance of part of meeting room

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

25. Suspension and amendment of Council Procedure Rules

25.1 Suspension

All of these Council Procedure Rules except Rules 19.5 and 22 may be suspended by motion on notice or without notice if at least one half of the whole number of councillors are present. Suspension can only be for the duration of the meeting.

25.2 Amendment

Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Ordinary meeting of the Council other than as a general review of the Constitution.

26. Application to committees and sub-committees

Unless a more specific meaning is explicit or implied by its context, reference to a committee throughout the Constitution shall be taken to mean any body of councillors appointed for a lawful purpose to undertake business on behalf of the Council, including but not only, committees, sub-committees, boards and working groups.

All of the Council Procedure Rules apply to meetings of the Council. None of the rules apply to meetings of the Executive. Only Rules 5, 6, 8, 9, 11, 12, 14, 15, 19, 20-24, 27, 28 and 31 apply to meetings of committees and sub-committees.

A Councillor who is not a member of a committee or sub-committee may attend any meeting but may only speak (but not vote) at the discretion of the Chair of the committee or sub-committee.

27. Role of a committee Chair and Vice-Chair

- (a) To chair meetings of the Council's committees so that the business of those committees can be carried out effectively and with regard to the rights of councillors and in the interest of the community.
- (b) To ensure that the provisions of the Constitution in relation to the conduct of meetings are observed.

28. Appointment of substitute members of committees and sub-committees

- (a) Powers and duties

Substitute councillors will have all the powers and duties of any ordinary member of a committee or sub-committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

- (b) Substitution

Substitute councillors may attend meetings in that capacity only:

- (i) where the Councillor who is giving apologies has notified the Democratic Services Manager before the commencement of the meeting of the intended substitution.

- (ii) to take the place of the ordinary councillor for whom they are the substitute;
 - (iii) where the ordinary councillor will be absent for the whole of the meeting; and
 - (iii) ~~after notifying the Chief Executive before the commencement of the meeting of the intended substitution.~~
- (e) ~~Substitution at Overview and Scrutiny Committees³~~

~~The Council resolved on 11 September 2012 to allow named substitutes for Overview and Scrutiny Committees on the same terms as those set out in Rule 28 (a) and (b) above~~

29. Right to attend meetings by non-members of committees or sub-committees

- (a) Any councillor can attend any committee or sub-committee meeting as of right but must sit apart from the body of the meeting and take no part.
- (b) Councillors who wish to speak on an item should declare this and may speak with the Chair's consent. The consent of the Chair will not be unreasonably withheld. If permission is granted ~~The~~ councillors will be allowed to speak after any presentation, but before the debate. The councillors will be allowed to speak for no more than 5 minutes.
- (c) Councillors who wish to speak on an item specifically related to the ward they represent will be allowed to participate in the debate as non-voting councillors for that specific item unless the law prevents them from so participating. (The Chief Executive will rule on any question concerning the relevance of items to specific wards).

30. Public involvement at committees

Where, in the opinion of the Chair, it is of value to a committee to hear relevant views from members of the public in relation to a specific item on the agenda, those views may be heard after any presentation by an officer on the item, but before the debate by councillors. The Chair will normally allow one person to speak on each item for a maximum of 5 minutes, any variation to be at the discretion of the Chair.

31. Withdrawal from the meeting due to a Disclosable Pecuniary Interest⁴

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

³ Amendment approved by Council on 11 September 2012

⁴ Amendment approved by Council on 24 April 2012 for implementation on 1 July 2012

interest (as defined from time to time by regulations) that Councillor (or co-opted member) must withdraw from the meeting room, including from the public gallery, during the whole consideration of the relevant item of business, except where s/he is permitted to remain as a result of the grant of a dispensation.

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APPENDIX 5



ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Community Engagement Forums, regulatory committees and public meetings of the Executive (together called meetings).
- 1.2 These rules also cover public rights of access to information, in relation to Council and Executive functions, including those under the Freedom of Information Act 2000, and Members' rights of access to information

2. Additional rights to information

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

3. Rights of the Public to attend meetings

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

4. Notice of meeting

- 4.1 The Council will give at least 5 clear working days' notice of any meeting by posting details of the meeting at its principal offices and on its website - www.selby.gov.uk

5. Notice of Private Executive Meetings

- 5.1 Where the Executive is likely to consider an item which contains exempt or confidential information and will require the public to be excluded from the meeting to prevent the disclosure of information, a notice must be published 28 clear days in advance of the meeting that includes a statement of the reasons for the meeting being held in private for that item. The notice should include details of how representations can be made.
- 5.2 Where the report contains confidential information as defined below the public must be excluded.
- 5.3 At least 5 clear days before the meeting a further notice will be published setting out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.
- 5.4 If the date of the meeting and the urgency of the decision makes compliance with this requirement impractical, the meeting may only be held in private with the agreement of the Chair of the relevant scrutiny committee, or if there is no such person the Chairman of the Council. As soon as reasonably

practicable after this permission is obtained a notice will be published setting out the reasons why the matter is urgent and cannot be reasonably delayed.

6. Public access to agenda and reports before the meeting

6.1 The Council will make copies of the agenda and reports that are open to the public available for inspection at the designated office at least 5 clear working days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

6.2 If an item is added to the agenda and the report is open to the public, the revised agenda will be open to inspection from the time the item was added to the agenda.

6.3 Moreover, that item will not be considered unless by reason of special circumstances, which shall be specified in the minutes and the Chair of the meeting agrees that it is urgent.

7. Supply of copies

7.1 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

7.2 The Council will supply copies of the following to any person on payment of a charge for postage and any other costs:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.

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

8. Access to minutes etc after the meeting

8.1 The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting or where appropriate records of decisions taken, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

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- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

9. Background papers

9.1 List of background papers

The author of every report considered at a meeting will set out a list of those documents (called background papers) relating to the subject matter of the report which:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report,

excluding any published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political advisor, or any draft report or document.

9.2 Public inspection of background papers

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

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

10. Summary of public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Rules, must be kept at and available to the public at the Council's principal offices. These Access to Information Procedure Rules constitute the written summary.

11. Exclusion of access by the public to meetings

11.1 Confidential information – requirement to exclude public

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

11.2 Meaning of confidential information

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

11.3 Exempt information – discretion to exclude public

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

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 the description of the exempt information giving rise to the exclusion of the public, and
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, public access to reports, background papers and minutes will also be excluded.

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

11.4 Meaning of exempt information

Exempt information means information falling within any of the categories set out in the following table, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972 (as amended).

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Category	Condition
1. Information relating to any individual.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts or the Charities Act 2011.</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter</p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes –	Information is exempt if and so long, as in all the circumstances of the case, the

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Category	Condition
(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

11.5 Disorderly Conduct – discretion to exclude public

The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting

12. Record of decisions of meetings other than Executive meetings

After any meeting of the Council or committees of the Council, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

13 Records of decisions at Executive meetings

After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:

- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;
- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

14. Additional rights of access for councillors

14.1 Material relating to forthcoming business

- (a) All Members are entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting unless
- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above; or
 - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
 - (iii) it contains the advice of a political adviser or
 - (iv) it is a draft report or draft background paper
 - (v) it is not a report or a background paper as defined in these Rules
- (b) All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless
- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above or
 - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

14.2 Material relating to Key Decisions by Officers

All Members of the Council will be entitled to inspect any document in the possession or under the control of the Executive or its committees which relates to any Key Decision made by an Officer unless any of the exceptions in these Rules apply.

14.3 Nature of rights

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

15 Overview and Scrutiny Committee Members' access to documents

15.1 Rights to copies

Subject to Rule 14.2 (Material relating to key decisions), any Overview and Scrutiny Committee Member will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business transacted at a public or private meeting of the Executive or its committees.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

15.2 Limit on rights

Overview and Scrutiny Committee Members will not be entitled to:

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

Where the Monitoring Officer determines that Overview and Scrutiny Committees are not entitled to a copy of a document that has been requested for the reasons set out above, the Executive must provide the relevant Scrutiny Committee with a written statement setting out the reasons for that decision.

16 MEMBERS ACCESS – NEED TO KNOW

16.1 Meaning of the Need to Know

Members have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Director.

16.2 The Nature of Requests

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Members should:

- (i) justify the request in specific terms, unless circumstances exist where a Member's need to know will be presumed – for example where a Member is on a committee and wants to inspect documents relating to that committee's business, or where the information requested is already in the public domain
- (ii) only use the information for the purpose for which it was provided, and get the prior agreement of the relevant Director to any disclosures to the press or the public

16.3 Limit on rights

There are a number of factors which may limit or outweigh a Member's need to know, including:

- (i) the need to know does not extend to a 'roving commission' through Council documents
- (ii) the need to know would only extend to personal information in exceptional cases
- (iii) draft documents compiled in the context of emerging Council policies, and draft reports will not usually be disclosed
- (iv) a Member of one party group will not have a need to know in relation to a document prepared for another party group
- (v) documents prepared specifically for one Member will not, unless he/she agrees, normally be provided to another Member
- (vi) documents will not be disclosed where the relevant Director believes that use of those documents by a Member may prejudice the Council's or the public interest.
- (vii) the level of resources required to deal with locating and supplying documents.

16.4 Procedure

Whether a Member has a need to know will be determined initially by the Director who holds the document in question (with advice from the Monitoring Officer). The Director must not have regard to party political advantage, nor must the Director's determination have the effect of preventing the Member concerned from giving evidence in Court, or of penalising the Member for so doing.

All internal documents and copies produced to any Member for inspection in accordance with this Rule will be produced on the basis that, in the absence of malice, officers are expressly indemnified in respect of any claim in

litigation that may result from such publication.

17 DISCLOSURE OF CONFIDENTIAL INFORMATION BY MEMBERS

- 17.1 Where a decision has been made under these Rules to exclude public access on the basis that exempt information would otherwise be disclosed, the Council requires a Member who wishes to disclose that information to approach the relevant Director, for a decision whether that information should be disclosed. Disclosure by a Member will only be refused, if the Director decides that in the event the Council received an FOI request at that time, the Council would not be obliged to disclose that information. The Council also requires in every case, so far as reasonably practicable a Member must give the relevant Director reasonable notice of their intention to make such a disclosure.
- 17.2 In deciding whether the Council would be obliged to disclose that information in response to an FOI request, the relevant Director will give particular consideration to the public interest reasons for disclosure proposed by the Member, and to the Member's right of freedom of expression and the particular importance of that right for elected representatives.

18 PUBLIC ACCESS TO OTHER INFORMATION - FREEDOM OF INFORMATION

- 18.1 Where a member of the public makes a request for information under the Freedom of Information (FOI) Act 2000, they will be informed in writing by the Council whether it holds such information, and if that is the case, they will have that information communicated to them, unless an exemption applies.
- 18.2 An FOI request must be in writing, state the name of the applicant and an address for correspondence, and describe the information requested. A request will be treated as made in writing where the text is transmitted by electronic means (e-mail), is received in legible form, and is capable of being used for subsequent reference.
- 18.3 FOI requests will be dealt with by the Lead Officer for the relevant service area.
- 18.4 FOI requests must generally be dealt with within 20 working days of receipt.
- 18.5 The Council will not comply with FOI requests where one or other of the exemptions applies. These include:

- information which is otherwise reasonably accessible

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- information intended for future publication
- information where disclosure would be likely to prejudice
 - the national or local economy
 - crime prevention/detection, prosecutions, and certain civil proceedings
 - health and safety
 - commercial interests
- information provided in confidence
- personal information

18.6 In relation to most of the exemptions, the Council must also apply the 'public interest test. Even where the terms of an exemption seem to apply, the Council is still under a duty to disclose, unless the public interest in maintaining the exemption outweighs the public interest in disclosure.

19 RIGHTS OF APPEAL

19.1 Appeals against refusals of FOI requests

If an FOI request is refused by the Council, the applicant may request a review of that decision by the Solicitor to the Council. If the complaint does not result in the disclosure of the relevant information an applicant may then apply to the Information Commissioner for a decision as to whether the Council has complied with the relevant provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations.

19.2 Appeals where Public Access is denied to a Report or Background Papers

If a member of the public is denied access to a report or background papers under these Rules, they may appeal at the relevant meeting by giving notice in writing to the Democratic Services Manager, such notice to be received not less than 24 hours before the relevant meeting is due to be held. Any such appeal will be considered as the first item on the agenda.

19.3 Appeals where a Member is denied inspection of a document

If a Member is denied inspection of a document under their statutory rights or their need to know rights, they may appeal to the Chief Executive.

A decision made by a Director to withhold the inspection of any internal document shall be valid and remain in force unless and until altered on an appeal.

20. Filming and Recording of Meetings

Filming and recording at public meetings is permitted in accordance with the

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Openness of Local Government Bodies Regulations 2014.

The Council has adopted a protocol on Audio/Visual Recording and Photography at Meetings which is included in Part 5 of this Constitution.

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APPENDIX 6



OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Application of Rules

These rules apply to the Overview and Scrutiny Committees set out in Article 6 of this Constitution and to any of their sub-committees. For the avoidance of doubt the Council's statutory Overview and Scrutiny functions are performed by the Policy Review Committee and Scrutiny Committee only.

2. Composition and Terms of Reference

All Councillors (except Members of the Executive) may be members of an Overview and Scrutiny Committee. However no Councillor may be involved in scrutinising a decision which he/she has been directly involved in.

Overview and Scrutiny Committees and their sub-committees may recommend to the Council the appointment of a number of people as non-voting co-optees. The Council shall determine the number of co-optees it may appoint.

The Terms of Reference for Overview and Scrutiny Committees are described in Article 6 of Part 2 and Paragraph 6 of Part 3 of this Constitution.

Overview and Scrutiny Committees and their sub-committees will be free of any party whip.

3. Meetings of the Overview and Scrutiny Committees and Sub-Committees

There shall be not less than 2 ordinary meetings of each Overview and Scrutiny Committee each year. Additional ordinary meetings and extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee or sub-committee meeting may be called by the Chair or by any 3 Members of the committee/sub-committee or by the Chief Executive, if he/she considers it necessary or appropriate.

4. Quorum

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

5. Who chairs meetings of the Overview and Scrutiny Committees?

Chairs and Vice-Chairs of Overview and Scrutiny Committees shall be appointed by the Council and will be drawn from among the councillors sitting on the committee. The Chairs and Vice Chairs of Overview and Scrutiny Sub-Committees shall be appointed by the committee which establishes the sub-committee.

6. Work programmes and agenda items

Each year all Overview and Scrutiny Committees will formulate a work programme setting out their planned work for the year ahead. ~~Draft work programmes will be submitted to the Executive for comment and each Overview and Scrutiny Committee will take into consideration the views of the Executive before they present their work programmes to Council for approval. Except where an Overview and Scrutiny Committee agree that exceptional circumstances apply, the proposed Annual Work Programme will normally be submitted no later than the first ordinary Council meeting after the Annual Meeting.~~

Any member of an Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Chief Executive that he/she wishes to have an item relevant to the functions of that committee/sub-committee included on the agenda for the next practicable meeting. The Chief Executive shall comply with such requests.

Any councillor shall be entitled to give written notice to the Chief Executive to have an item included on an Overview and Scrutiny work programme. Such matters must be either relevant to the discharge of any function of the Authority or which affect all or part of (or any person who lives or works in) the area to which the councillor is elected. The appropriate committee or sub-committee will then decide whether to include that item and will notify the councillor (a) whether the item is to be included in its draft work programme (and if not why not) and (b) the outcome of any consideration of the substantive item.

Where the Council, or the Executive, asks Overview and Scrutiny to consider any particular matter the appropriate Overview and Scrutiny Committee, or the appropriate sub-committee, will adjust their work programme to the extent necessary to carry out that review and report back in writing to the Council or the Executive. The Council and/or the Executive shall consider the report of the committee/sub-committee within one month of receiving it.

7. Call-in

~~Call-in should only be used where councillors have evidence which suggests that the decision maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).~~

- (a) ~~When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, principally by electronic means, and shall also be available at the main offices of the Council normally within 5 clear working days of being made. Councillors will be sent copies of the records of all such decisions within the same timescale and by the same means, by the person responsible for publishing the decision.~~

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- (b) ~~That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.~~
- (a) Where a decision is made by the Executive or a key decision is made by an Officer under delegated powers it will be published in accordance with the Executive Procedure Rules and may be subject to Call-in.

Call-in should only be used where councillors have evidence which suggests that the decision-maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).

- (be) During the 5 clear working day period between a decision being published and its implementation the Chief Executive shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by any 5 councillors who are not members of the Executive and shall then notify the Executive of the call-in. He/she shall call an extraordinary meeting of the Scrutiny Committee where possible after consultation with the Chair, if an ordinary meeting will not be held within 7 clear working days from the date of the call-in request. The Chief Executive will notify the Executive and any other relevant councillors and officers of the call-in and the date on which it will be considered. Written requests will be a single document or a number of documents saying the same thing which taken together are received from 5 councillors.

Such a document or documents may be submitted electronically to the Chief Executive and the Chief Executive shall accept the validity of the document unless anything is brought to his/her attention which challenges its validity.

- (cd)[†] The sponsor of the “call in” or one of the other co-signatories shall present the grounds for the call-in and their concerns about the decision to the Scrutiny Committee. The Scrutiny Committee will then hear from any other relevant contributors and then debate and determine the matter. In reaching a decision on the matter the Scrutiny Committee may also comment on the validity of the “call-in”
- (df) Having considered the decision, the Scrutiny Committee may refer it back to the Executive for reconsideration, setting out the reasons in writing, providing any other information which might be useful to the Executive when it reconsiders the matter or it may refer the matter to Council.
- (ef) If the Scrutiny Committee fails to meet within 14 clear working days of receiving a valid call-in request, or does meet but does not refer the

[†] Amendment approved by Council on 11 September 2012

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matter back to the Executive or on to Council, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 14 clear working day period, whichever is the earlier.

- (fg) If the matter was referred to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case the Council will refer any decision to which it objects back to the Executive, together with the Council's views on the decision. Within 20 clear working days of receiving the views of the Council the Executive shall decide whether to amend the decision or not before implementing it.
- (gh) If the Council does not refer the decision back to the Executive, the decision will become effective on the date of the Council meeting.
- (hi) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Executive the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both the Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Chief Executive, and a report submitted to the Council with proposals for review if necessary.

8. The conduct of meetings

- (a) Overview and Scrutiny Committees and their sub-committees shall consider business in the following order:
 - (i) minutes of the last meeting;
 - (ii) any declarations of interest;
 - (iii) the forward plan
 - (iv) any response from the Executive to a previously-forwarded

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report;

- (iv) the business otherwise set out in the agenda for the meeting.
- (b) When an Overview and Scrutiny Committee or one of its sub-committees is conducting a review or investigation, it shall have the right to documents and other information as described in the Access to Information Procedure Rules set out in Part 4 of this Constitution.
- (c) Where an Overview and Scrutiny Committee conducts investigations they are to be conducted with the following principles:
 - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - (iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (d) An Overview and Scrutiny Committee or any of its sub-committees (in relation to matters falling within their terms of reference) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council or Executive functions. It may require the Leader, any Member of the Executive or councillor, the Head of Paid Service and any Chief Officer or Director to attend before it to explain, in relation to their remit, the following:
 - (i) any particular decision or series of decisions and the reasons for them,
 - (ii) the extent to which any action or lack of action affects the Council and/or implements Council policy;
 - (iii) performance and outcomes in relation to the areas under their control.

It is the duty of those persons to attend if required, but such attendance will follow written notice from the Chief Executive, who will give to the relevant person at least 7 clear working days notice in writing or by electronic mail of the meeting at which he/she is required to attend. The notice will indicate the nature of the item and whether there is a requirement to produce any papers or other background information, or whether a report is required.

If, exceptionally, the relevant councillor or officer is unable to attend on the required date, an alternative date may be arranged by mutual

agreement.

An Overview and Scrutiny Committee or any of its sub-committees may invite persons other than those set out above to give evidence, including individuals from outside the Council or from other organisations. In this case attendance is voluntary.

If there is a wish for officers below Director level to give evidence, then that attendance shall only be with the agreement of the Head of Paid Service or a Chief Officer.

- (e) Following any investigation or review, an Overview and Scrutiny Committee or sub-committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

9. Reports from Overview and Scrutiny Committees and Sub-Committees

At the conclusion of any Overview and Scrutiny activity the committee or sub-committee will publish and submit its views, findings or recommendations, in writing, to any appropriate body of the Council, an officer or relevant partner/outside organisation.

Where such a report is submitted to a body of the Council or an officer the Chief Executive shall ensure that suitable arrangements are made so that the report is considered and that a response is reported back to the Overview and Scrutiny Committee or sub-committee within 2 months. Where the original submission was published, the response shall also be published and where the original submission was copied to separate individuals, the response shall also be circulated to the same individuals. Where a report is made to an outside organisation the Chief Executive shall request consideration of it and a response.

The Chair of the Overview and Scrutiny Committee or sub-committee which has submitted the report shall be entitled to attend any meeting of the Council, its committees or the Executive to present the report.

Any report or response to or from Overview and Scrutiny shall exclude any confidential information and may exclude any exempt information. Where such exclusions are made a summary should be included which does not disclose the confidential or exempt information.

10. Joint Overview and Scrutiny Committees

The Council may decide to participate in Joint Overview and Scrutiny Committees for the purpose of securing local improvement targets.

APPENDIX 7

OFFICER EMPLOYMENT PROCEDURE RULES

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

1. Appointment to be on merit

All appointments shall be made on merit irrespective of age, race, disability, ethnicity, gender, or religion and belief or political beliefs or sexual orientation or other protected characteristic.

24. Recruitment and appointment

(a) Declarations

- (i) All applicants will be required to disclose whether or not they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an officer and/or a councillor at Selby District Council or the partner of such persons. Applicants failing to disclose such a relationship will be disqualified from the appointment, or if appointed, will be dismissed without notice.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Chief Officer, Director or an officer nominated by him/her.

(b) Seeking support for appointment.

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

32. Recruitment of officers

Where the Council proposes to appoint an officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

43. Appointment of Head of Paid Service, Monitoring Officer, Chief Officers and Section 151 Officer

- (a) Subject to Rule 4 below, the Council will approve the appointment of the Head of Paid Service and Monitoring Officer following the recommendation of such an appointment by an Appointments Panel of the Council.
- (b) Subject to Rule 4 below, an Appointments Panel of the Council will appoint Chief Officers (except the Head of Paid Service) and the officer with Section 151 responsibilities.

(For the purposes of Rules 3 (a) and (b) an Appointments Panel shall be politically balanced and comprise a minimum of 4 and a maximum of 6 councillors including the Leader and relevant Executive Member(s)).

54. Offer of appointment as Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer.

An offer of appointment as Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer must not be made by the Council until:

- (a) the Appointments Panel has notified the Proper Officer of the name of the person to whom an offer is proposed and any other particulars which it considers are relevant to the appointment;
- (b) the Proper Officer has notified every Member of the Executive of:
 - (i) the name of the person to whom an offer is proposed;
 - (ii) any other particulars relevant to the appointment which have been notified to the Proper Officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Proper Officer; and
- (c) either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Appointments Panel that neither he/she nor any other Member of the Executive has any objection to the making of the offer;

- (ii) the Proper Officer has notified the Appointments Panel that no objection was received by him/her within that period from the Leader; or
- (iii) the Appointments Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

(For the purposes of this paragraph 'Proper Officer' means an officer appointed by the Council for this purpose in accordance with the Regulations and can be a different officer depending on the appointment being made).

65. Disciplinary action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than 2 months.
- (b) **Independent person.** No other disciplinary action other than suspension as set out above may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a 'designated independent person', as defined by and appointed in accordance with the powers set out in Regulation 7 of the Regulations.

76. Dismissal of Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer

- (a) In this paragraph, 'dismissor' means, in relation to the dismissal of an officer of the Council, the authority or, where a committee or sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, or sub-committee or other officer, as the case may be. Where a committee or sub-committee is formed for this purpose, at least one Member of the Executive must be a Member of that committee/sub-committee which must otherwise be politically balanced.
- (b) Subject to paragraph 5, notice of the dismissal of the Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer must not be given by the dismissor until:
 - (i) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (ii) the Proper Officer has notified every Member of the Executive

of:

- the name of the person who the dismissor wishes to dismiss;
- any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
- the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the Proper Officer; and

(iii) either:

- the Leader has, within the period specified in the notice under sub-paragraph (b)(ii), notified the dismissor that neither he/she nor any other Member of the Executive has any objection to the dismissal;
- the Proper Officer has notified the dismissor that no objection was received by him/her within that period from the Leader; or
- the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

(For the purposes of this paragraph 'Proper Officer' will have the same meaning as paragraph 4 and as defined in the Regulations).

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

87. Other Officers

- (a) **Officers other than those referred to in rules 3, 4, 5 and 6 above** Appointment, dismissal, or the taking of disciplinary action against all other officers is the responsibility of the Head of Paid Service or an officer nominated by him/her.
- (b) Except as reserved herein, disciplinary action shall be discharged by the Head of Paid Service or by an officer nominated by him/her and in accordance with the procedures adopted and/or amended by the Council from time to time.
- (cb) Councillors will not be involved in the appointment, dismissal or discipline of any officer below Chief Officers, the Section 151 Officer or the Monitoring Officer.

8. Appointment to be on merit

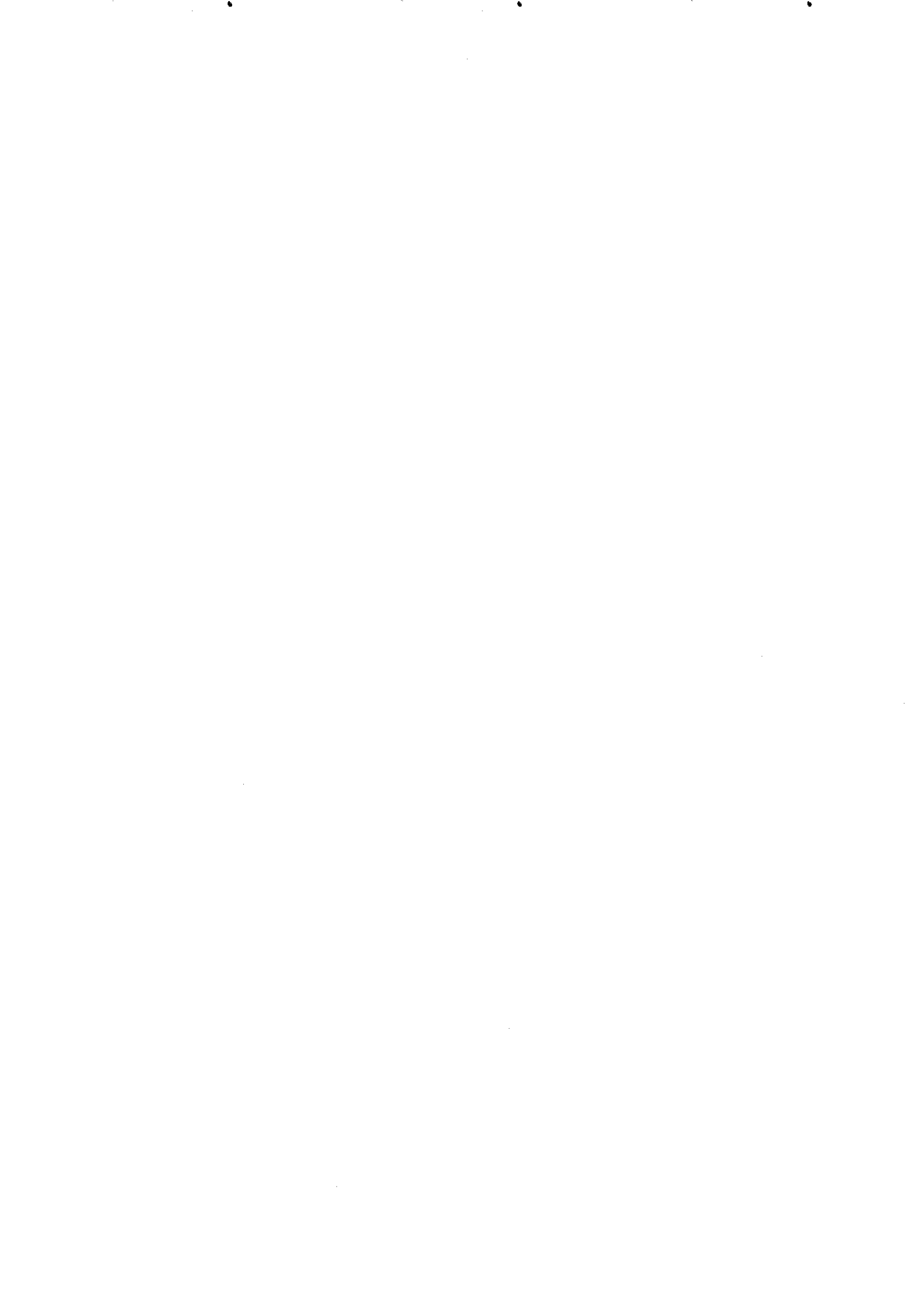
Selby District Council Part 4 - Rules of Procedure
Officer Employment Procedure Rules

- (a) ~~All appointments shall be made on merit irrespective of age, race, disability, ethnicity, gender, or religion and belief or political beliefs or sexual orientation.~~
- (b) ~~Except as reserved herein, disciplinary action shall be discharged by the Head of Paid Service or by an officer nominated by him/her and in accordance with the procedures adopted and/or amended by the Council from time to time.~~

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APPENDIX 8



EXECUTIVE PROCEDURE RULES

1. Role and Composition of the Executive

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The allocation of responsibilities is set out in Part 3 of this Constitution.

The Executive will consist of the Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader.

2. Delegation of Executive Functions

2.1 At the Annual Meeting of the Council, the Leader will present a report containing the following information regarding the discharge of executive functions in the forthcoming year:

- (a) The names of the councillors he/she appoints to the Executive.
- (b) The terms of reference and constitution of any Executive committees the Leader appoints and the names of the councillors appointed to them.
- (c) The nature and extent of any delegation of an Executive function to an individual member of the Executive, with details of limits on those delegations and the name of the councillor to whom the delegation is made.
- (d) The nature and extent of any delegation of an Executive function to officers, with details of limits on those delegations and the title of the officer to whom the delegation is made.
- (e) The nature and extent of any delegation of an Executive function to any Community Engagement Forum, other authority, or any joint arrangements including names of the Executive Members appointed to serve under those arrangements.

2.2 The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. Any changes will take effect on the day after the notice is given to the Chief Executive. The Chief Executive will present a report to the next Ordinary meeting of the Council setting out the changes made by the Leader.

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

on its Chair.

3. Appointments

3.1 Election of Leader

The Leader will be elected by the Council from the elected councillors. That election will be made at the Annual Meeting of the Council immediately following an ordinary election of councillors or at a subsequent meeting if no such appointment is made and the Leader will remain in office for a period of 4 years until either:

- (a) the next Annual Meeting of the whole Council immediately following an ordinary election of councillors; or
- (b) the Leader ceases to be a Selby District councillor; or
- (c) the Council, by a majority vote of those present in response to a Notice of Motion submitted in accordance with the Council's rules, decides to remove the Leader from office; or
- (d) the Leader is suspended from being a councillor under Part III of the Local Government Act 2000; or
- (e) the Leader resigns as Leader.

3.2 Role of the Leader

- (a) To provide strategic vision and leadership to the political administration of the Council.
- (b) To promote excellence in the delivery of public services.
- (c) To represent the Council and its political administration in the community.
- (d) To develop and maintain effective relationships with the Council's Chief Executive, Chief Officers and Directors.
- (e) To encourage co-operation and communication across political and Council boundaries.

3.3 Key Tasks of the Leader

- (a) To provide political leadership to the Council.
- (b) To act as a role model for appropriate behaviour, ethical practice and democratic processes.

- (c) To act as the main political spokesperson within and outside the Council.
- (d) To answer and account to the Council and the community for the delivery of services and the performance of the Council.
- (e) To challenge the performance of the Council in order to achieve improvement and excellence.

3.4 Appointment of Deputy Leader

The Leader shall appoint a member of the Executive to serve as Deputy Leader. The term of office of the Deputy Leader shall be 2 years but it will be open to the Leader to revoke the appointment and appoint a new Deputy at any time.

3.5 Role of Deputy Leader

The Deputy Leader shall exercise all of the powers and duties of the Leader if the Leader is unable to act in that capacity or the post of Leader is vacant.

3.6 Appointment of Executive Councillors

The Leader shall appoint at least 2 and no more than 9 elected councillors to serve on the Executive.

In the event of an Executive Member resigning or otherwise being removed from office as an Executive Member the Leader shall make a new appointment or otherwise report to the Council with any new arrangements for the discharge of executive functions. The normal term of office of an Executive Member shall be 2 years.

3.7 Role of Executive Councillors

- (a) To assist and support the Leader in making strategic decisions on behalf of the Council.
- (b) To take a lead in an area of policy, or in relation to an aim, objective, priority or activity as the Leader may determine from time to time.
- (c) To promote and maintain high standards of conduct by members.
- (d) To represent the Council and its political administration in the community.

- (e) To influence and determine the development and review of the Council's policies, strategies, budget and service delivery.
- (f) To liaise with the Council's Chief Executive, Chief Officers and Directors.
- (g) To represent the Council on outside bodies and partnerships.

3.8 Key Tasks of Executive Councillors

- (a) To contribute towards developing and implementing new policy, strategy, programming, budget and service standards, and leading performance review.
- (b) To act as spokesperson within and outside the Council on matters allocated by the Leader from time to time.
- (c) To act as a role model for appropriate behaviour, ethical practice and democratic processes.
- (d) To provide advice and guidance to authorised officers in the execution of delegated authority where that authority requires prior consultation.
- (e) To answer and account to the Council and community for matters within the Executive's remit.

4. Decisions of the Executive

Executive decisions will be made either:

- (a) by the Executive as a whole; or
- (b) by a committee of the Executive; or
- (c) by an individual member of the Executive; or
- (d) by an officer acting under delegated powers, the Scheme of Officer Delegation being set out in Part 3 of this Constitution; or
- (e) by joint arrangements; or
- (f) by another local authority.

Where the Executive as a whole, a committee of the Executive or an individual member of the Executive is responsible for an Executive function, they may in turn delegate that function to an officer or to joint arrangements, but the delegation of the function will not prevent the discharge of that function by the delegating body.

5. The Forward Plan

5.1 Period of Forward Plan

The Leader will prepare a Forward Plan which must list all key decisions which the Executive anticipates that they will take during the next four months. The most recent Forward Plan will be taken to supersede any other plan.

5.2 Content of Forward Plan

The Forward Plan will include the following information in respect of each key decision:

- (a) the matter in respect of which a decision is to be made;
- (b) the person or body by whom the decision is to be made;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the steps any person might take who wishes to make representations to the decision-taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (e) a list of the documents (which are available to the public) submitted to the decision-taker for consideration in relation to the matter.

5.3 Publication of Forward Plan

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

5.4 Procedure before taking key decisions

Subject to Rule 5.5 (general exception) and Rule 5.6 (special urgency), a key decision may not be taken unless:

- (a) a notice (in the 'Forward Plan') has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in

accordance with Rule 6.2 (Notice of Meeting).

5.5 General exception

If a matter which is a key decision has not been included in the Forward Plan, then subject to Rule 5.6 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision to ensure that notice has been published within 28 clear days of the meeting.
- (b) the Proper Officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made.
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's internet site.
- (d) at least 5 clear working days have elapsed since the Chief Executive complied with (b) and (c).

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

5.6 Special urgency

If by virtue of the date by which a decision must be taken Rule 5.5 (general exception) cannot be followed, then the decision can only be taken if the Chair of the body making the decision obtains the agreement of the Chair of the Scrutiny Committee that the decision cannot be reasonably deferred and that the decision is genuinely urgent.

If there is no Chair of the Scrutiny Committee, or if the Chair of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice. If the relevant person does not agree that the decision may be reasonably regarded as urgent in the circumstances then the decision cannot be taken other than in accordance with these Rules.

As soon as practicable after agreement has been obtained, a notice must be made available at the Council's offices setting out the reasons that the making of the decision is urgent and cannot reasonably be deferred.

This notice must also be published on the Council's internet site.

5.7 Report To Council on special urgency decisions taken

The Leader will submit at least annually a report to the Council on the Executive decisions taken in the circumstances set out in Rule 5.6 (special urgency) in the period since the last report was submitted. The report will include the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

6. Meetings of the Executive

6.1 Frequency and location of Meetings

The Executive will normally meet on a monthly cycle, at such dates and times as shall be determined by the Leader and notified to the Council at its Annual Meeting.

The Executive shall meet at the Council's principal offices or at such other location as the Leader may from time to time determine.

6.2 Notice of and Public Access to Meetings and Agendas

Notice of the time and place of an Executive meeting will be given by publishing the Agenda together with the reports to be considered on the Council's website at least 5 clear working days before the meeting or at the time that the meeting is convened if that is less than 5 clear working days before the meeting. Reports for items added to the Agenda will be published when the item is added.

All meetings of the Executive shall be in public in accordance with the Access to Information Procedure Rules, set out in Part 4 of this Constitution subject to Rule 6.3 below. This does not preclude meetings which involve private, informal discussion between Executive Members and others.

Any councillor may attend any meeting of the Executive as a member of the public, but there is no right for non-Executive Members to speak or vote at Executive meetings.

The Statutory Officers of the Council shall have the right to attend any meeting of the Executive and shall be entitled to speak on issues affecting their statutory responsibilities.

6.3 Notice of Private Executive Meetings

Where the Executive is likely to consider an item which contains exempt or confidential information and will require the public to be excluded from the meeting to prevent the disclosure of information, a notice must be published 28 clear days in advance of the meeting that includes a statement of the reasons for the meeting being held in private for that item. The notice should include details of how representations can be made.

At least 5 clear days before the meeting a further notice will be published setting out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.

Where the report contains confidential information as defined in the Access to Information Procedure Rules, the public must be excluded.

If the date of the meeting and the urgency of the decision makes compliance with this requirement impractical, the meeting may only be held in private with the agreement of the Chair of the relevant scrutiny committee, or if there is no such person the Chairman of the Council. As soon as reasonably practicable after this permission is obtained a notice will be published setting out the reasons why the matter is urgent and cannot be reasonably delayed.

6.4 Agenda

The Agenda will generally follow the format below

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Executive (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) consideration of reports from Overview and Scrutiny Committees;
- (e) reports from Statutory Officers in respect of their functions;
- (f) the items of business set out in the agenda for the meeting.

The items of business set out in the Executive Forward Plan and in the agenda will indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules.

6.5 Who can put items on the Executive agenda?

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

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

Chief Executive will comply.

The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Executive where an Overview and Scrutiny Committee or the Council has resolved that an item be considered by the Executive. However, there may only be up to 3 such items on any one agenda.

Any member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting. However, there may only be one such item per Executive meeting unless the Leader exercises a discretion to allow more than one.

The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

6.6 Quorum

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

6.7 Substitutions

Substitutes are not permitted for Executive Members, but the absence of an Executive Member shall not prevent consideration and determination of any matter if a quorum is present.

6.8 Conflicts of interest

If a conflict of interest arises during the consideration of any matter which is an Executive function, it will be dealt with in accordance with the Code of Conduct for Councillors set out in Part 5 of this Constitution.

If during the exercise of an Executive function that has been delegated a conflict of interest arises, then the function will in the first instance be exercised instead by the body or person by whom the delegation was made or otherwise in accordance with the Code of Conduct for Councillors, set out in Part 5 of this Constitution.

7. Record of decisions at Executive meetings

After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:

- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;
- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

8. Call-in

Call-in should only be used where councillors have evidence which suggests that the decision-maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).

- (a) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, principally by electronic means, and shall also be available at the main offices of the Council normally within 5 clear working days of being made. Councillors will be sent copies of the records of all such decisions within the same timescale and by the same means, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.
- (c) During the 5 clear working day period between a decision being published and its implementation, the Chief Executive shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by any 5 councillors who are not members of the Executive and shall then notify the Executive of the call-in. He/she shall call an extraordinary meeting of the Scrutiny Committee where possible after consultation with the Chair, if an ordinary meeting will not be held within 7 clear working days from the date of the call-in request. The Chief Executive will notify the Executive and any other relevant councillors and officers of the call-in and the date on which it will be considered. Written requests will be a single document or a number of documents saying the same thing which taken together are received from 5 councillors.

Such a document or documents may be submitted electronically to the Chief Executive and the Chief Executive shall accept the validity of the document unless anything is brought to his/her attention which challenges its validity.

APPENDIX 9



LOCAL COUNCILLOR CONSULTATIVE CHARTER

The Council is committed to providing its Elected Councillors with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Ward and where circumstances render it appropriate to involve a Local Councillor.

1. Directors and staff will be continually vigilant to identify such matters and ensure that Local Councillors are informed accordingly.
2. Directors will ensure that all correspondence/enquiries from Local Councillors are dealt with promptly and if necessary Councillors will be kept advised of progress.
3. Any matter of significance or sensitivity which relates to a particular Ward will be discussed with the Local Councillor(s) concerned before being submitted for a decision by the Executive or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained. However, it does not prevent the Executive or officers from considering such matters in advance of a formal recommendation or decision as this consultation is required only when a settled intention to proceed with an option or options affecting the Ward have been reached.
4. Directors and staff will regularly brief appropriate Executive Councillors on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
5. Details of any petitions received which relate to matters in a particular Ward will be sent to the Local Councillor(s) concerned. In addition, copies will also be provided to the Leader. Local Councillors will be kept informed on the progress/outcomes of such petitions.
6. Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Parish/Town Councils and the Local Government Ombudsman which relate to matters of any significance or sensitivity in a particular Ward will be sent to the Local Councillor(s) concerned.
7. Copies of all correspondence with MPs and MEPs which relate to matters in a particular Ward will be sent to the Local Councillor concerned. In addition, copies will also be provided to the Leader.
8. Access Selby will provide every Councillor with an Officer contact guide for the services they provide, including where appropriate local contacts.
9. Wherever appropriate Access Selby will make Local Councillors aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of Council projects, schemes, exhibitions etc.
10. In certain instances, both Councillors and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Councillor(s) concerned a single response to such enquiries.
11. As part of a continual review of the Charter's effectiveness, the co-operation of Councillors is sought in the responsible use at all times of advice and information that is provided to them, and Councillors are encouraged to advise Officers of the information

requirements and of any local circumstances or sensitivities which might have a bearing on the Council's work.

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APPENDIX 10



CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1. INTRODUCTION

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
 - 1.3.1 Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
 - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
 - 1.3.3 Councillors should make decisions on merit.
 - 1.3.4 Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
 - 1.3.5 Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
 - 1.3.6 Councillors should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Councillors and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications

for the position of individual elected Councillors and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.

- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Councillors involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Councillors shall provide:
- 2.7.1 Impartial and professional advice;
- 2.7.2 Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its

Councillors or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is.

- 2.10 If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Councillors to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.12 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

3. COUNCILLORS INTERESTS AND ALLEGATION OF BIAS

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its planning merits, Councillors should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Planning Committee Councillors who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:-
 - 3.4.1 from being closely aligned with ward campaigns or issues;
 - 3.4.2 from membership of other Committees of the Council;
 - 3.4.3 from membership of other public or community bodies;
 - 3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);

- 3.4.5 from a connection with a particular policy initiative of the Council;
- 3.4.6 from membership of clubs, societies and groups; and
- 3.4.7 from hobbies and other leisure interests.

Such interests may mean that a Councillor is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee providing that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

- 3.5 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

4. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY

- 4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 4.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an interest and take no part in the discussion and determination of that proposal, except where they are the local Councillor when they may speak on matters of local concern but shall not vote.
- 4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

5. STATUTORY DUTIES

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

5.1 Equality Act 2010

Section 149 provides that:

- 5.1.1 A council must, in the exercise of its functions, have due regard to the need to:-
 - (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

5.1.2 The above powers relate to the following protected characteristics:-

- (a) Ages;
- (b) Disability;
- (c) Gender reassignment;
- (d) Marriage and civil partnership;
- (e) Pregnancy and maternity;
- (f) Race (including colour, nationality and ethnic or national origins);
- (g) Religion or belief;
- (h) Sex; or
- (i) Sexual orientation.

5.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

"It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right."

5.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

5.4 **Crime and Disorder**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

6. **LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Councillor or members of the Planning Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.

- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Planning Committee Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
- 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
 - 6.4.2 only give procedural advice;
 - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
 - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors (other than when addressing the Planning Committee). Councillors shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local Councillor who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (representing the views of their ward) but not vote. The Councillor for an adjacent ward substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, also be allowed to attend and speak but not vote. A local Councillor who has an interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare an interest and not vote or decide on the matter. However, that Councillor shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 6.8 Councillors of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Councillor cannot be instructed how to exercise their vote on a planning matter.

- 6.9 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Councillors need to preserve their role as impartial decision makers and members of Planning Committee should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when other Councillors are involved, it should be part of a structured arrangement with Officers. Councillors must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

8. OFFICER REPORTS TO COMMITTEE

- 8.1 The Lead Officer - Planning will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Lead Officer - Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Lead Officer - Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

8.3 The Lead Officer - Planning will have available for inspection by Councillors the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

9. PLANNING CONSIDERATIONS

9.1 Planning decisions should be made on material planning considerations and should not be based on immaterial considerations.

9.2 Members of Planning Committee should attend training sessions which may be organised from time to time. All other Councillors are encouraged to attend.

9.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.

9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:-

9.4.1 the Development Plan;

9.4.2 Government Guidance;

9.4.3 Supplementary Planning Documents adopted by the Council;

9.4.4 non-statutory planning policies adopted by the Council;

9.4.5 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;

9.4.6 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;

9.4.7 representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;

9.4.8 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.

9.5 it should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.

9.6 It is the responsibility of officers in preparing reports and recommendations to Councillors to identify the material planning considerations and warn Councillors about those matters which are immaterial planning decisions.

9.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.

- 9.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 9.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 9.10 It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

10. THE DECISION MAKING PROCESS

- 10.1 Councillors shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.4 Where the Planning Committee decide to adopt the recommendation of the Lead Officer - Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 10.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Lead Officer - Planning, or the Development Plan, if agreement can be reached at the meeting rather than deferring the item, the planning reasons for that decision shall be fully minuted.
- 10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

11. SITE VISITS BY THE COMMITTEE

- 11.1 A site visit may be held if the Lead Officer - Planning in consultation with Chair of the relevant committee considers it will assist Councillors in reaching their decision or where a site visit has been requested or an application deferred for such a visit. Site visits should only be undertaken where there is a reason to do so. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material.
- 11.2 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all Councillors attending the Planning Committee should also attend the site visit. Councillors voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be

fully informed about the application. Information gained from the site visit should be reported back to committee so that all Councillors have the same information.

- 11.3 Site visits should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.
- 11.4 The organisation of the site visit will fall to the planning officer, who will inform Democratic Services of the need to send out site visit invites to the following:
- All Members of the Planning Committee including nominated substitutes
 - Relevant Ward Members
 - Relevant Parish Councillors
- 11.5 The Applicant/Agent will be informed that a site visit will take place in order to ensure that site access can be arranged. This is arranged by the planning officer due to their ongoing contact with relevant applicants/agents.
- 11.6 Objectors/supporters of the applicant will be invited to attend the site visit at the discretion of the Chair of the Planning Committee.
- 11.7 No opportunity for speaking, debate or giving opinions will be afforded to the Agent/Applicant or other parties e.g. Parish Councillors, Ward Councillors, neighbours or objectors who attend the site. The only exception to this is if the Chair of the Planning Committee permits a response to questions of fact asked by the members of the Committee.
- 11.8 The site visit will be attended by the relevant planning officer(s) who will answer any questions raised. The planning officer(s) will describe the development and point out the relevant issue(s) that the Committee has come to view.
- 11.9 On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will explain the application as it relates to the site and relevant viewpoints. Following any questions to the planning officer, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
- 11.10 Members of the Committee should address any request for clarification through the Chair of the Planning Committee. Questions should not be directed to the applicant/agent, parish councillors, local Ward Councillors or other third parties present. Should the Chair deem it appropriate, those present may be requested to respond to questions of fact only.
- 11.11 Councillors should not engage in open discussion either individually or in groups with the applicant or any other people present. Any request for Councillors to express a view or accept an offer of hospitality should be politely declined.
- 11.12 Unofficial site visits are not encouraged as they do not have the appropriate procedural safeguards. Any Councillor attending an unofficial site visits must ensure that they avoid giving the impression that he/she represents the views of the Planning Committee or the Council. If a Councillor feels compelled to give a personal view, he/she should emphasise that the final decision is one for the Planning Committee.

12. PUBLIC SPEAKING AT PLANNING COMMITTEE

12.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Councillors have the opportunity to inspect all letters received before the decision on the application is made.

12.2 The council operates a scheme of public speaking at planning committee meetings. Normally the following people can speak at Planning Committee in relation to any specific application.

- One speaker representing the applicant – usually the applicant themselves or their agent.
- One speaker representing the objectors.
- The relevant Parish Council representative.
- A Ward Member.

In exceptional circumstances the Chair has discretion to allow any other person to speak if it is considered necessary to do so.

Order of Speakers

1. The objector has five minutes to put their case.
 2. A representative of the relevant parish council then has five minutes to put their case.
 3. A ward member who wishes to speak on the application will be allocated five minutes to put their case.
 4. At the appropriate time any other person allowed to speak at the discretion of the Chairman will be allowed five minutes to put their case.
 5. Finally the applicant, or their representative, will be allowed five minutes to put their case.
- 12.3 The speaker representing the applicant must have the permission of the applicant to represent him/her.
- 12.4 The speaker representing the objector(s) can be a neighbour, an interested individual or a representative of a residents group.
- 12.5 The first objector to register to speak will normally be appointed as the spokesperson. Where there is more than one person wishing to speak, objectors are encouraged to agree on a spokesperson who is prepared to cover all the points of concern, so as to make best use of the time available.
- 12.6 Persons wishing to speak on an application, which is to be considered at a Planning Committee and who have previously made representations on the application should contact the Public Speaking Officer on 01757 292037 before 3.00pm on the Monday prior to the Committee meeting.

No late notification will be accepted and speakers cannot “turn up” to speak at Committee without the due notice being given.

- 12.7 The purpose of the scheme is to enable speakers to put forward any points they wish to make directly to the Committee. There will be no need to read any submission already made in writing, as this will already be summarised in the report Councillors have before them.
- 12.8 Speakers should confine their comments to matters relevant to planning applications.
- 12.9 People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting.
- 12.10 The Chair of the Committee retains the right to decline to hear someone if they behave improperly, offensively or if they, in the Chair's view, intentionally obstruct the business in hand.
- 12.11 Officers may comment on the representations and the merits of the application in the light of those representations
- 12.12 The Committee will proceed to debate the application and make a decision.

13 REVIEW OF DECISIONS

- 13.1 The Audit Commission's Report, 'Building in Quality', recommended that elected Councillors should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 13.3 Attendance at the review site visits shall be restricted to members of the committee and the local Councillor(s).

14. TRAINING

- 14.1 Councillors should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 14.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out your role properly and effectively.

APPENDIX 11



CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH LICENSING MATTERS

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1. INTRODUCTION

- 1.1 Premises Licensing affects land and property interests, including the financial value of land and the quality of their settings. Personal Licences affect individuals. Licensing is often highly contentious because decisions affect the daily lives of everyone. Opposing views are often strongly held by those involved.
- 1.2 The licensing system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council.
- 1.3 The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
 - 1.3.1 Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
 - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
 - 1.3.3 Councillors should make decisions on merit.
 - 1.3.4 Councillors should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
 - 1.3.5 Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
 - 1.3.6 Councillors should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Licensing decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Councillors and Officers of the Council shall follow when involved in licensing. Licensing matters include the consideration of applications, the preparation of policy and the enforcement of licensing law.
- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Councillors and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.
- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining applications and making other decisions within the terms of reference of Licensing and

Appeals Committee. Although of particular relevance to members of the Committee it applies to all members of the Council who may become involved in licensing matters.

2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Licensing and Appeals Committee is to make licensing decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the relevant issues in the light of Council policies, Government advice and their own individual judgement.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers in their role of advising Councillors shall provide:
 - 2.6.1 Impartial and professional advice;
 - 2.6.2 Complete written reports covering all necessary information for a decision to be made
- 2.7 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.8 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

3. COUNCILLORS INTERESTS AND ALLEGATION OF BIAS

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its merits, Councillors should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Licensing and Appeals Committee. Councillors who have such interests should consider whether it is

appropriate for them to participate in the licensing process (as opposed to the Committee), and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.

3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the licensing system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:-

3.4.1 from being closely aligned with ward campaigns or issues;

3.4.2 from membership of other Committees of the Council;

3.4.3 from membership of other public or community bodies;

3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);

3.4.5 from a connection with a particular policy initiative of the Council;

3.4.6 from membership of clubs, societies and groups; and

3.4.7 from hobbies and other leisure interests.

3.4.8 from political affiliations

Such interests may mean that a Councillor is involved with a licensing application before the matter comes before the Committee. Such involvement need not on its own debar a Councillor from participating in making the decision when the matter is considered by Licensing and Appeals Committee providing that the Councillor has not already decided how they will vote on the matter before the meeting. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

3.5 As a minimum, the integrity of the licensing system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

4. APPLICATIONS BY THE COUNCIL OR A COUNCIL OWNED COMPANY

4.1 Licensing legislation allows the Council to submit and determine proposals for licences. Council owned companies also submit proposals that are decided by the Council.

4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

4.3 Members of the Licensing and Appeals Committee who sit on the board of a Council owned company which has submitted an application shall declare an interest and take no part in the discussion and determination of that proposal.

4.4 Officers who are involved in the preparation of licensing proposals shall not advise on, or take any part in the consideration of, applications in respect of such proposals.

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The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the licensing function except when such matters are clearly immaterial because they are not capable of relating to the proposal under consideration. Examples of these duties include:

5.1 **Equality Act 2010**

Section 149 provides that:

- 5.1.1 A council must, in the exercise of its functions, have due regard to the need to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a protected characteristic and persons who do not share it.
- 5.1.2 The above powers relate to the following protected characteristics:-
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"Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

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- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal may seek to influence the decision by an approach to their local Councillor or members of the Licensing and Appeals Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations. The views of consultees and the assessment of the case by the licensing officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the Licensing and Appeals Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Licensing and Appeals Committee member shall be free to listen to a point of view about a licensing proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
 - 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
 - 6.4.2 only give procedural advice;
 - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
 - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Licensing and Appeals Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors. Councillors shall not put improper pressure on officers for a particular recommendation.
- 6.6 If a member of the Licensing and Appeals Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare an interest and not vote or decide on the matter.

- 6.7 Councillors at a meeting of the Committee must be free to vote as they consider appropriate on licensing matters. A Councillor cannot be instructed how to exercise their vote on a licensing matter.
- 6.8 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS

- 7.1 Discussions between an applicant and the licensing authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the licensing process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3 Advice should be consistent and based upon relevant licensing policies and considerations.
- 7.4 A written note should be made of all potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Councillors need to preserve their role as impartial decision makers and members of Licensing and Appeals Committee should not take part in pre- or post- submission discussions and negotiations with applicants.
- 7.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for procedural or technical advice should refer the applicant to the relevant officer.

8. OFFICER REPORTS TO COMMITTEE

- 8.1 A Senior Enforcement Officer will submit written reports to the Licensing and Appeals Committee or Sub-Committee on licensing applications to be determined by the Council. The reports will give the background to the application including any relevant licensing history of the site, a description of the proposals, and the relevant law and Council or Government policy considerations. The reports will include a summary of representations made about the application.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Senior Enforcement Officer will have available for inspection by Councillors the full application and representations from bodies consulted and members of the public.

9. RELEVANT CONSIDERATIONS

9.1 Local opposition or support for a proposal is not in itself a ground for refusing or granting application, unless that opposition or support is founded upon valid licensing reasons which can be substantiated.

9.2 It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the relevant matters and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

10. THE DECISION MAKING PROCESS

10.1 The Licensing and Appeals Committee will give reasons for all decisions.

11. SITE VISITS BY THE COMMITTEE

11.1 Site visits in licensing are rare but where they occur they should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.

12. PUBLIC SPEAKING AT LICENSING AND APPEALS COMMITTEE

12.1 Wherever possible, objections or representations to licensing applications should be made in writing and must comply with any relevant regulations. Written representations received will be made available for public inspection and objections summarised and reported to the Licensing and Appeals Committee. Councillors have the opportunity to inspect all letters received before the decision on the application is made.

12.2 In relation to Licensing Act 2003 and Gambling Act 2005 applications those who may speak at a meeting are defined in regulations issued under the respective Acts.

12.3 In all other cases public speaking will be permitted where it is the interests of natural justice and a fair hearing to do so.

14. TRAINING

14.1 Councillors should not participate in decision-making at meetings dealing with licensing matters if they have not attended training on an Introduction to Licensing Law and Practice.

14.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of licensing law, regulations, procedures, Codes of Practice and policies beyond the minimum referred to above and thus assist them in carrying out their role properly and effectively.



APPENDIX 12



Protocol on Audio/Visual Recording and Photography at Meetings

The Council is committed to being open and transparent in the way it conducts its decision making. The Council will facilitate recording at Council and committee and sub-committee meetings which are open to the public, subject to the recording being conducted under the direction of the Chairman of the meeting.

The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chairman of the meeting will facilitate this by ensuring that all parties are made aware that recording is or may take place and any request not to be recorded is communicated to those doing the recording.

The guidelines which the Council will apply are:-

1. Anyone wishing to record is encouraged to contact, prior to the start of the meeting, the Democratic Services Officer whose details are set out on the Agenda for advice and assistance.
2. The recording should take place from the public seating area and must be overt (ie clearly visible to anyone at the meeting) but non-disruptive.
3. All those visually recording a meeting are requested to focus only on recording councillors, officers and those members of the public speaking to the meeting who have not objected to being filmed.
4. Any member of the public has the right not to be recorded. Agendas for meetings will make it clear that recording can take place. If any member of the public speaking at the meeting does not wish to be recorded, they must let the Chairman of the meeting know at the start of the meeting.
5. Any children or young people under the age of 18 who are present at the meeting are not to be filmed unless their parents/guardians have given their written consent.
6. The Chairman of the meeting has absolute discretion to stop or suspend the meeting if, in his/her opinion, continuing to do so in public with recording taking place would prejudice proceedings at the meeting. The circumstances in which this might occur include:-
 - recording is disrupting the proceedings of the meeting;
 - there is public disturbance of the meeting;
 - the meeting has resolved to exclude the public for reasons which are set down in the Council's Constitution;
 - a member of the public participating in the meeting objects to being recorded and it is not possible to effectively conduct the business on the Agenda whilst respecting the objection.
7. The recording and reporting on meetings of the Council, its committees and sub-committees is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation. The recording

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should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Council's values or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view. The Council will have no liability for material published by any other person unless it is itself undertaking the publication through its offices.

Please contact, in advance of the meeting, the Democratic Services Officer whose details are set out on the Agenda if the recording you wish to do involves equipment which is larger than a smart phone, tablet or compact camera or if you have special requirements eg to move around the room to record or film from different angles.

The use of lighting for filming/flash photography will usually be allowed if it is arranged via the Democratic Services Officer prior to the meeting.

The Council requests this contact in advance of the meeting so it can ensure the meeting will not be unduly disrupted and there is a safe environment to transact the business.