

## COUNCIL CONSTITUTION

Selby District Council has approved a 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 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

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 for a four year term at the Council's annual meeting and ~~an Executive of~~ between 2 and 9 other councillors whom the Leader appoints. One of the councillors appointed by the Leader will be his or her deputy leader. The functions that the Executive is responsible for can be outlined in Part 3.3 of this Constitution.

When major decisions are to be discussed or made, these are published in the Executive's Forward Plan of Key Decisions 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 Sscrutiny

There are 3-three overview and scrutiny committees who support the work of the Executive and the Council as a whole. Their roles are outlined in part 3.5 of this constitution. 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 Committees also monitor 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-five Community Engagement Forums have been ~~created~~established to ensure all areas of the district are represented. 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, as well as taking decisions if responsibility has been delegated to them. 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.

-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 (Part 5.5).

### **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 according to the Council's protocol on audio/visual recording and photography at meetings (part 5.8);
- petition, including the right to petition to request a referendum on a mayoral form of executive;

- submit question to meetings of the Council ~~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 of Key Decisions, 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 (part 4.2);
- complain to the Council ~~about matters which are the Council's responsibility~~ as outlined in the Council's Corporate Complaints Policy;
- complain to the Local Government and Social Care 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 in line with the arrangements in part 5.2 of the constitution if they have evidence which they think shows that a councillor has not followed the Councillor's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

## PART 2 - ARTICLES OF THE CONSTITUTION

### Article 1 – The Constitution

#### 1.1 Powers of the Council

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

#### 1.2 The Constitution

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

#### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) Regulate and guide the proper conduct and better operation of the Council's business;
- (b) Enable the Council to provide clear leadership in partnership with the community, businesses and other organisations;
- (c) Support the active involvement of the community in the process of ~~local authority council~~ 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 ~~and~~;
- (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.

## Article 2 – Councillors

### 2.1 Composition and eligibility

- (a) **Composition** - The Council comprises 31 members, otherwise called councillors representing 19 wards.

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-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 ordinary election.

### 2.3 Roles and functions of all councillors

The Council has developed role descriptions for the following posts:

- The Leader of the Council
- Executive Member
- Chair of the Overview and Scrutiny Committee
- Chair of the Policy Review Committee
- Chair of the Audit and Governance Committee

- (a) Generally however, Key roles – All councillors will:
- (i) collectively determine the policies of the Council as set out in the policy framework;
  - (ii) represent their communities and bring their views into the Council's decision making process i.e. become the advocate of and for their communities
  - (iii) contribute to the good governance of the area and actively encourage community participation and involvement in decision-making;
  - (iv) effectively represent the interests of their ward and of individual constituents;
  - (v) respond (fairly and impartially) to constituents' enquiries and

representations;

- (vi) participate in the governance of the Council;
- (vii) be available to represent the Council on other bodies;
- (viii) maintain the highest standards of conduct and ethics; and
- (viii) 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'—Members' Allowances Scheme set out in Part 6 of this Constitution.



## **Article 3 – The Public and the Council**

### **3.1 The rights of the public**

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

- (a) To vote if their name appears on the electoral roll for the District.
- (b) To attend meetings of the Council, its committees and the Executive, 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 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 Forum 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.
- (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 Executive 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'~~ Members' Allowances Scheme under Article 2.5.
- (i) Changing the name of the District.
- (j) Conferring the title of Honorary Alderman or freedom of the district.
- (k) Confirming the appointment of the Head of Paid Service or the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- (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) Adopting the Council's Codes of Conduct.
- (o) 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.

## Article 5 – Chairing the Council

### 5.1 Role and function of the Chairman

The Chairman of the Council, elected at the Annual Meeting of the Council, acts as Chair 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 act as the Council's first citizen;
- (b) to promote the Council as a whole and act as a focal point for the community;
- (ac) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- ~~(bd)~~ 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;
- (ee) 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~~
- (df) to promote public involvement in the Council's activities; ~~and.~~
- (g) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

### 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.~~

### 5.2 Role and Function of Vice Chairman of Council

The Vice-Chair of Council, elected at the Annual Meeting of the Council, will have the following responsibilities:

- (a) in the absence of the Chairman, to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and in the interests of the whole community; and
- (b) to attend such civic and ceremonial functions as the Council or

| Chairman determine appropriate

## Article 6 - Overview and Scrutiny Committees

### 6.1 Appointment and Purpose

The Council will appoint ~~3~~three 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 and Governance Committee (to scrutinise and monitor the Council's control systems, procedures and risk management systems).

Each of the ~~3~~three Committees will comprise a Chair and Vice Chair appointed by the Council and no more than ~~5~~five 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~~may:

- (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 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 ( Head of Service 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.

**Officers** - Overview and scrutiny committees may exercise overall responsibility for the work of the officers employed to support the Committees in delivering their annual work programmes.

### **6.3 Proceedings of overview and scrutiny committees**

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

## Article 7 - The Executive

### 7.1 Role

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

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

### 7.2 Form and composition

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

The Executive will consist of the Leader together with at least 2-two but no more than 9-nine 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-four years unless he/she:

- (a) resigns from the office of Leader; or
- (b) ~~resigns from the Council~~ is no longer a councillor; or
- (c) is suspended from being a councillor under Part III of the Local Government Act 2000; or
- (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. Neither the Chairman nor the Vice Chairman may be appointed to 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~~ act or the office of Leader is vacant.

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) ~~they are no longer a councillor~~~~resign from the Council~~; or
- (c) they are suspended from being a councillor under Part III of the Local Government Act 2000; or
- (d) they 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 proper arrangements (maintained, reviewed and updated as necessary) are in place for the discharge of those functions.

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

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

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

### **8.1 Regulatory and other committees**

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 an Employment Committee with the membership and responsibilities set out in Part 3 of this Constitution.

## **Article 9 - Standards Arrangements**

### **9.1 Standards Arrangements**

The Council has adopted a local Code of Conduct and Standards Arrangements. A copy of the code of conduct and the Standards Arrangements are attached to this Constitution at Part 5.

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

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

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

### **10.2 Composition**

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

Community Engagement Forum Partnership Boards will comprise all district ward councillors from the area concerned and all North Yorkshire County Councillors from the area covered by the CEF, 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.

The CEF Chair will be appointed by the Council. He/she will also chair the Partnership Board. The Chair need not be a member of Council but on being appointed will automatically assume the position of voting co-opted member of the Board in accordance with the limits set for such members.

Each CEF shall appoint a Vice-Chair from amongst the members of the Partnership Board.

The Chairman of Council, 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 raise, discuss and consider matters related to the well-being of the CEF's area, particularly, but not exclusively, those matters which are the responsibility of the local government authorities, their partner organisations and other organisations who provide services partly or wholly funded by public funds.
- (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 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.
- (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.
- (g) ~~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.~~

#### **10.4 Conduct**

The members of the CEF shall conduct themselves in accordance with the provisions of the Code of Conduct for Councillors or the Code of Conduct for Members of the CEF attached at part 5 of the Constitution as applicable under the CEF Procedure Rules.



## **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 5 of the Local Government and Housing Act 1989 (the Monitoring Officer) and any other Chief Officer shall be the responsibility of the Employment Committee set up by the Council to make such appointments. The appointment of the Head of Paid Service and the designation of the s151 Officer 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
- Director of Corporate Services & Commissioning
- Director of Economic Regeneration & Place

### **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) The Head of Paid Service is the Chief Executive
- (b) The Chief Finance Officer is the Chief Finance Officer (s151) Selby District Council/Assistant Director Strategic Resources North Yorkshire County Council
- (c) The Monitoring Officer is the Solicitor to the Council.

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

The existing 'Proper Officer' appointments are as follows:

The Chief Executive, the Chief Officers, the Solicitor to the Council and the Chief Finance Officer 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 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 or within the extent of his/her delegated powers;
- (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) 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) 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) To deal with applications for dispensations from the rules relating to councillor and co-optee interests in accordance with the delegations set out in Part 3 of this Constitution.

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

#### **11.7 Duties of the Chief Finance Officer**

The Chief Finance Officer shall have the following responsibilities:

- (a) to report to the Council or to the Executive (the latter in relation to an Executive function) and the Council's Auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account

unlawfully. This report will follow consultation with the Head of Paid Service and the Monitoring Officer. Where a report relates specifically to the Head of Paid Service, the Chief Finance Officer shall first consult the Leader of the Council. Where a report relates specifically to the Monitoring Officer, the Chief Finance Officer shall first consult the Head of Paid Service.

- (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~~
- North Yorkshire Police, Fire 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
- (d) 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.

### **13.5 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.

### **13.6 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.

### **13.7 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.

**13.8 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.

**13.9 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.

**13.10 Decision-making by Council bodies acting as tribunals**

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

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

### **14.1 Financial management**

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

### **14.2 Contracts**

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

### **14.3 Legal proceedings**

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

### **14.4 Authentication of documents**

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

Any contract with a value exceeding £25,000 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 make available a copy of this Constitution to each councillor upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at the Council's offices, its website, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

### **Schedule 1: Description of Executive arrangements**

The following parts of this Constitution constitute the Executive arrangements:

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

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

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

### **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 (NON EXECUTIVE) FUNCTIONS**

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

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

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

##### **EXECUTIVE FUNCTIONS**

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

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

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

to time by such delegated officer(s) for this purpose.

## **5. Joint Arrangements**

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

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

Details of any joint arrangements including any delegations to joint committees are set out in this Part (see para 3.7).

## **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:

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

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

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

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

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

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

<b>Function</b>	<b>Decision-Making Body</b>	<b>Membership</b>	<b>Delegations to Officers</b>
Town and Country Planning, Development Control, Land and Highways	Planning Committee	9 councillors	See Officer Delegations (section 3.9)
Licensing, Registration and Appeals (incl the statutory Licensing Committee) <sup>2</sup>	Licensing and Appeals Committee	10 councillors	See Officer Delegations (section 3.9)
Standards	Council	All Councillors	See Officer Delegations (Section 3.9) and the Standards Arrangements in Part 5
Health and Safety at Work	Council	All councillors	See Officer Delegations (section 3.9)
Elections and Other Civic Arrangements (including Byelaws and Bills)	Council	All councillors	See Officer Delegations (section 3.9)

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

<sup>2</sup> Licensing Act 2003



Selby District Council Constitution - Part 3  
Responsibility for Functions

Staff & Pensions	Council	All councillors	See Officer Delegations (Section 3.9)
------------------	---------	-----------------	---------------------------------------

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

Certain Council (non-executive) functions have also been delegated to officers. Details of those delegations can be found in the Tables in Section 3.9 of this Part.

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

Function	Decision-Making Body	Membership	Delegation of Functions
Appeals against decisions of the Authority	Licensing and Appeals Sub Committee	3 councillors	
Best value reviews	The Executive	Executive councillors	
Contaminated Land	The Executive	Executive councillors	
Control of Pollution and Air Quality	The Executive	Executive councillors	
Statutory Nuisance	The Executive	Executive councillors	
Enquiries as to interest in land	The Executive	Executive councillors	
Agreements as to Highway Works	The Executive	Executive councillors	
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.

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

Certain local choice functions have also been delegated to officers. Details of those delegations can be found in the Tables in Section 3.9 of this Part.

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

<b>Function</b>	<b>Decision-Making Bodies</b>	<b>Extent of Functions</b>
<del>Sustainable Community Strategy<sup>5</sup></del>	<del>The Executive</del>  <del>The Council</del>	<del>Formulation and Development</del>  <del>Adoption, amendment and modification</del>
<del>Community Safety Partnership Plan/Crime and Disorder Reduction Strategy<sup>6</sup></del>	<del>The Executive</del>  <del>The Council</del>	<del>Formulation and Development</del>  <del>Adoption, amendment and modification</del>
Plans and alterations which together comprise the Development Plan <sup>7</sup>	The Executive  The Council	Formulation and Development  Adoption, amendment and modification
Licensing Policy Statement (Gambling) <sup>8</sup>	The Executive  The Council	Formulation and Development  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 3.9 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:-

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

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

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

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

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

- a) Providing overall leadership and direction to the Council.
  - b) Discharging all the functions of the Council which are Executive Functions under the law and this constitution
  - c) Formulating, monitoring and reviewing the budget and policy framework, following appropriate consultation, for adoption or approval by the Council.
  - d) Leading the search for best value in all that the Council does.
  - e) Ensuring effective performance of the Council in relation to its stated policies and objectives.
  - f) 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.
  - g) Co-ordinating the policies and activities of the Council.
  - h) Determining all matters to do with the implementation of strategies, plans and policies which are not otherwise delegated to another part of the Council by law or under this Constitution.
  - i) 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 reports annually to Council on the standing delegations to officers.

## Role and Composition of the Executive

### Members of the Executive

Councillor Mark Crane – Leader of the Council with specific responsibility for **s**Strategic **m**Matters, **e**External **r**Relations, **L**Leisure and **p**Partnerships

Councillor John Mackman – Lead Councillor for Place Shaping and Deputy Leader of the Council

Councillor Clifford Lunn – Lead Councillor for Finance and Resources

Councillor Christopher Metcalfe – Lead Councillor for Communities and Economic Development

Councillor Chris Pearson – Lead Councillor for Housing, **L**Leisure, Health and Culture

## **Executive Portfolios**

### **The Leader**

#### **Main Role**

To exercise the Executive Leader powers vested in the Leader in accordance with the Local Government Act 2000 as amended by section 62 of the Local Government and Public Involvement in Health Act 2007.

To provide visible political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery.

To lead the development of external relations and local, regional, national and European policy and strategic partnerships.

#### **Main Duties and Responsibilities**

- i. To Chair the Executive.
- ii. To represent and act as an ambassador for the Authority and to lead in developing strategic partnerships with agencies, citizens and stakeholders in relation to the delivery of strategic objectives in the Corporate Plan and the provision of services to citizens.
- iii. To have overall responsibility for:
  - (a) Strategic Policy and Budget issues
  - (b) Development, monitoring and implementation of the Policy Framework
  - (c) Communicating the Council's values, vision and objectives to councillors, staff and to citizens, partners and stakeholders
  - (d) The York, North Yorkshire and East Riding and Leeds City Region Local Enterprise Partnerships and the Combined Authority.
- iv. To lead on external communications for the Council.
- v. To lead on major projects.
- vi. To take up corporate membership of any appropriate body or organisation whose objectives are considered to be beneficial to the pursuit of the Authority's own activities.
- vii. To monitor the performance of the Council including the implementation of the Corporate Plan and other major plans by:-
  - (a) Setting strategic performance targets
  - (b) Ensuring corporate goals and milestones are met
  - (c) Developing new policies and strategies
- viii. To ensure that systems exist to appraise the performance of senior managers.

- ix. To determine the ways in which the Council spends the funds allocated to the Programme for Growth.
- x. Lead political responsibility for corporate support functions such as democratic services, HR, communications and legal services.
- xi. Lead political responsibility for leisure services.**

### **Deputy Leader and Place Shaping Portfolio**

Overall responsibility for the promotion, development and delivery of land use and planning activities, as an integral part of making Selby a great place to live in accordance with the Corporate Plan.

Representing the Council on regional groups relating to land use planning, such as duty to co-operate groups.

Responsibility for overseeing relationships with outside bodies which do not fall within any other portfolio (such as Internal Drainage Boards).

### **Main Duties and Responsibilities**

- i. To chair Executive Meetings when the Leader is not present.
- ii. To deputise for the Leader at Leeds City region, LEP and Combined Authority meetings as necessary.
- iii. To lead on the development, promotion and delivery of policies and strategies in connection with Land Use Planning and Development.

### **Finance and Resources Portfolio**

Overall Responsibility for co-ordinating and developing the responsibilities and activities of the Council in relation to the effective and efficient use of its resources, monitoring the budget, delivering value for money and the savings plan, debt control, procurement, assets, council tax, revenues and benefits as an integral part of delivering great value in accordance with the Corporate Plan.

### **Main Duties and Responsibilities**

- i. To lead on the provision of guidance for the capital and revenue budgetary priorities of the Council together with the implementation of strategic budget monitoring policies which will ensure the proper administration of the financial affairs of the Council.
- ii. Lead political responsibility for audit and risk management.
- iii. Lead political responsibility for debt control, procurement, council tax, revenues and benefits, property and asset management.

## **Communities and Economic Development Portfolio**

Overall Responsibility for communities and economic development as an integral part of making Selby a great place to do business and to make a difference, in accordance with the Corporate Plan.

### **Main Duties and Responsibilities**

- i. Lead political responsibility for inward investment, economic development and business partnerships such as STEP.
- ii. Lead political responsibility for Community Engagement Forums, funding and support of local community and voluntary sector organisations and Community Safety.
- iii. Lead political responsibility for the access to services agenda and embedding customer focus within services.
- iv. Lead political responsibility for Equality and Diversity.

## **Housing, ~~Leisure~~, Health and Culture Portfolio**

Overall responsibility for public and private sector housing, leisure, culture and health as an integral part of making Selby a great place to live in accordance with the Corporate Plan.

### **Main Duties and Responsibilities**

- i. Lead political responsibility for public and private sector housing including representation of the Council in North Yorkshire and Leeds City Region housing strategies.
- ii. To lead on the development promotion and delivery of policies and strategies in connection with Culture, Leisure and Sport, Tourism and events.
- iii. To promote and develop effective partnership working arrangements with public, private and voluntary stakeholders to promote the District as a centre of cultural development and as an attractive tourist destination.
- iv. Lead political responsibility for the development and delivery of policies and strategies in connection with the provision of effective and efficient environment services. This includes street scene services, waste collection and disposal, parks and other public spaces, enforcement and environmental health.
- v. ~~Lead political responsibility for leisure services.~~
- vi. Lead political responsibility for health including environmental health and licensing functions.

### **Individual Executive Councillor Decision making for 2015/16**

The Leader has reserved individual decision making powers to himself in respect of:

- (i) Any executive decisions (including key decisions), in a situation where the matter is so urgent that it does not allow time for a report to Executive.
- (ii) The allocation of funds within the Programme for Growth.

An individual delegation has been given to the Lead Councillor for Finance and Resources to approve virements above the limits delegated to officers in the financial procedure rules up to a maximum of £75 000.

Current standing executive delegations to officers are set out in Section 3.9 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.
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 metal

Including the setting of fees.

2. The licensing and enforcement functions of the Council relating to
  - (a) Licensing functions under the Licensing Act 2003 including applications for and variations to premises licences, club premises certificates and provisional statements where a relevant representation has been made and not withdrawn and imposing appropriate conditions\*
  - (b) Licensing functions under the Gambling Act 2005 including the setting of fees\*

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

#### **3.4.3 LICENSING AND APPEALS SUB COMMITTEE<sup>9</sup>**

---

<sup>9</sup> This is sub-committee constituted under the Licensing Act 2003 and political balance is not required.



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

#### **3.4.4 EMPLOYMENT COMMITTEE**

Consisting of the Leader of Council, the Deputy Leader of Council, a non-Executive Councillor from the ruling group appointed by the Leader of Council and the Leader of the opposition group

1. to make recommendations to Council to appoint the Head of Paid Service.
2. to make recommendations to Council as to the dismissal<sup>10</sup> of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
3. to take disciplinary action short of dismissal against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
4. to suspend, and keep under review the suspension of, the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer

#### **3.4.5 ADVISORY PANEL ON DISCIPLINARY MATTERS RELATING TO STATUTORY OFFICERS**

Consisting of the Independent Person(s) appointed under s28(7) of the

---

<sup>10</sup> Dismissal and action short of dismissal have the meaning set out in the Local Authorities (Standing Orders) (England) Regulations 2001.

Localism Act 2011 to advise the Council on councillor conduct complaints.

1. To advise the Council when making decisions on recommendations from the Employment Committee as to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
2. To advise the Employment Committee when it is considering taking disciplinary action short of dismissal against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.

### **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.
5. To consider proposed new Council policy documents as well as scrutinising existing policies.

#### **3.5.2 Scrutiny Committee**

1. To scrutinise the performance of the Council and that of its partner organisations and other agencies delivering services within the Selby District.
2. To exercise the Council's statutory obligations and powers in relation to Overview and Scrutiny.
3. Exercise the right of call-in of decisions and recommendations made but not yet implemented.
4. To issue reports and make recommendations, where appropriate, and in relation to any matters listed above, for consideration by the Council, Executive or the relevant committee of the Council

### 3.5.3 Audit and Governance Committee

1. To monitor and report on the effectiveness of the Council's Constitution.
2. To receive reports from the Monitoring Officer on the effectiveness of the Standards Arrangements adopted by the Council.
3. 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).
4. To be satisfied that the Council's assurance statements, including the Annual Governance Statement, have been properly developed and considered by councillors.
5. To scrutinise and monitor the control systems, procedures and risk management systems operating at the Council.
6. To receive, but not direct, internal audit service strategy and plan and monitor performance.
7. To receive the annual report of the internal audit service
8. To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
9. To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
10. To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
11. To consider the reports of external audit and inspection agencies relating to the actions of the Council.
12. 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.
13. 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.
14. 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.

15. To monitor the Council's use of the Regulation of Investigatory Powers Act (RIPA) 2000 for the use and authorisation of surveillance.

### **3.5.4 Policy Review Committee Chair's Role Profile**

#### **1. Providing leadership and direction**

- Provide confident, effective leadership and management of the Committee
- Promote and publicise the role of Policy Review both inside and outside of the Council, liaising effectively within the Council and externally with the Council's partners to build understanding of its role
- Maintain effective liaison with the Executive and the Leadership Team to ensure that Policy Review contributes to effective decision making in Selby
- Develop a balanced work programme with the Committee that contributes to the development of new Council policy and reviews the effectiveness of existing Council policy
- Maintain an overview of Policy Review in order to ensure the effective progress of all work, and learn from best practice elsewhere
- Represent Policy Review in Council meetings and relevant board and panel meetings, and be accountable for the actions of Policy Review
- Evaluate the impact and added value of Policy Review activity and identify areas for improvement
- Encourage the involvement of all interested parties and stakeholders in Policy Review matters
- Be responsible for personal development, encourage high performance from all Committee Members, assess individual and collective performance and oversee training and development of all involved in the work of Policy Review
- Demonstrate an objective and evidence based approach to Policy Review

#### **2. Effective meeting management**

- Set agendas containing clear objectives and outcomes for the meeting
- Chair meetings of the Policy Review Committee and manage the progress of business at meetings, ensuring that meeting objectives are met and the Code of Conduct, Standing Orders and other Constitutional requirements are adhered to
- Ensure that the necessary preparation is done before a meeting
- Ensure that all participants have an opportunity to make an appropriate contribution.

### **3.5.5 Scrutiny Committee Chair's Role Profile**

#### **1. Providing leadership and direction**

- Provide confident, effective leadership and management of the Committee
- Promote and publicise the role of Scrutiny both inside and outside of the Council, liaising effectively within the Council and externally with the Council's partners to build understanding of its role
- Maintain effective liaison with the Executive and the Leadership Team to ensure that Scrutiny contributes to effective decision making in Selby
- Develop a balanced work programme with the Committee that includes pre-decision scrutiny, performance monitoring and investigative Scrutiny on issues of benefit to the local community
- Maintain an overview of Scrutiny in order to ensure the effective progress of all work, and learn from best practice elsewhere
- Represent Scrutiny in Council meetings and relevant board and panel meetings, and be accountable for the actions of Scrutiny
- Evaluate the impact and added value of Scrutiny activity and identify areas for improvement
- Encourage the involvement of all interested parties and stakeholders in Scrutiny matters
- Be responsible for personal development, encourage high performance from all Committee Members, assess individual and collective performance and oversee training and development of all involved in the work of Scrutiny
- Demonstrate an objective and evidence based approach to Scrutiny.

## **2. Effective meeting management**

- Set agendas containing clear objectives and outcomes for the meeting
- Chair meetings of the Scrutiny Committee and manage the progress of business at meetings, ensuring that meeting objectives are met and the Code of Conduct, Standing Orders and other Constitutional requirements are adhered to
- Ensure that the necessary preparation is done before a meeting
- Ensure that all participants have an opportunity to make an appropriate contribution
- Be responsible for the constitutional arrangements relating to the waiving of call in where decisions are "urgent" and / or not on the forward plan.

## **3. Holding the Executive to account**

- Consider Executive reports the Chairman deems appropriate prior to an Executive meeting
- Evaluate Executive decisions and where appropriate challenge decisions through call-in.

### **3.5.6 Audit and Governance Committee Chair's Role Profile**

#### **1. Providing leadership and direction**

- Provide confident, effective leadership and management of the Committee
- Promote and publicise the role of Audit and Governance within the Council and externally with partners to build understanding of its role
- Maintain effective liaison with the Executive and the Leadership Team to ensure that Audit and Governance contributes to effective decision making in Selby
- Develop a balanced work programme with the Committee that includes scrutinizing and monitoring the Council's control systems, procedures and risk management systems
- Maintain an overview of Audit and Governance in order to ensure the effective progress of all work, and learn from best practice elsewhere
- Maintain a clear focus on the role of the committee and lead it in line with good governance principles
- Represent Audit and Governance in Council meetings and relevant board and panel meetings, and be accountable for the actions of Audit and Governance
- Evaluate the impact and added value of Audit activity and identify areas for improvement
- Encourage the involvement of all interested parties and stakeholders in Audit and Governance matters
- Liaise and maintain a positive working relationship with both the Council's Internal and External Auditors
- Be responsible for personal development, encourage high performance from all Committee Members, assess individual and collective performance and oversee training and development of all involved in the work of Audit and Governance
- Demonstrate an objective, apolitical and evidence based approach to Audit and Governance.

## **2. Effective meeting management**

- Set agendas containing clear objectives and outcomes for the meeting
- Chair meetings of the Audit and Governance Committee and manage the progress of business at meetings, ensuring that meeting objectives are met and the Code of Conduct, Standing Orders and other Constitutional requirements are adhered to
- Ensure that the necessary preparation is done before a meeting
- Ensure that all participants have an opportunity to make an appropriate contribution
- Ensure that meetings have a focus on improvement and securing agreement on actions.

### **3.5.7 Standards Sub-Committee**

#### ***To include two Parish Council representatives as co-opted members***

1. Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Localism Act

2011.

## **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 of the CEF Partnership Board**

All Selby District ward councillors for the Forum area.

North Yorkshire County Councillors for the relevant division covering the CEF area.

Up to 4 co-opted representatives from town and parish councils in the Forum area (or such lower number as the CEF shall determine save that the total number of co-opted members may not exceed 8)

Up to 4 co-opted other members who are community representatives (or such lower number as the CEF shall determine save that the total number of co-opted members may not exceed 8)

### **3 Functions**

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

- (g) ~~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.~~

## **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 NORTH YORKSHIRE POLICE AND CRIME PANEL**

#### **Purpose**

The North Yorkshire Police, Fire and Crime Panel is a joint committee established and maintained in accordance with the Police Reform and Social Responsibility Act 2011 and the Police and Crime Act 2017.

The Police and Crime Panel discharges statutory functions set out in the 2011 and 2017 Acts.

#### **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**

### **3.8.1 LEEDS CITY REGION PARTNERSHIP COMMITTEE**

#### **Purpose**

To act as a consultative forum for matters referred to it by the West Yorkshire Combined Authority (WYCA) and advise the WYCA in relation to:

- i. its accountable body functions
- ii. duty to cooperate matters
- iii. appointments to the Leeds City Region LEP

#### **Membership**

The Leaders of each of the member Councils.

The Leader of Selby District Council has appointed the Deputy Leader as his named substitute.

Full membership details, Terms of Reference, functions and rules governing the conduct and proceedings of meetings can be obtained via the WYCA.

## **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, Directors, the Solicitor to the Council, the Chief Finance Officer and Heads of Service 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 and Council are set out in the delegations below

**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 Chief Finance Officer S151) 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) and to be able to approve sub delegation any of their functions in their absence;
  - (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 act as the Returning Officer and 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 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.
- (i) To approve (in consultation with the Leader) any matter, including funding agreements, necessary to give effect to any resolution of the West Yorkshire Combined Authority in respect of recommendations of the Leeds City Region LEP affecting the Selby District.<sup>11</sup>
- (j) To discharge any function of the Council not otherwise delegated to Chief Officers, 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 Chief Finance Officer (s151) 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.

#### **3.9.4 Specific Functions delegated to the Directors**

- (a) To deputise for the Chief Executive when the Chief Executive is absent or unable to act in that capacity:

#### **3.9.5 Specific Functions delegated to the Solicitor to the Council**

---

<sup>11</sup> This function has also been delegated concurrently by the Leader to the Director of Regeneration and Place.

- (a) To assist the Chief Executive in relation to Returning Officer functions
- (b) To act as the Monitoring Officer:
- (i) To be the proper officer to receive complaints of failure to comply with the local Councillor Code of Conduct;
  - (ii) 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;
  - (iii) 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;
  - (iv) 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;
  - (v) To grant dispensations from the rules concerning councillor interests;
  - (vi) To determine requests for councillors' interests to be considered and dealt with as sensitive interests;
  - (vii) To make administrative changes to the Constitution or changes to names, titles or designations and changes consequential to legislative changes, where the Council does not have a discretion on how the changes should be implemented or which do not alter the purpose or intent of this Constitution;
  - (viii) To deal with complaints (including complaints relating to maladministration) and to authorise without prejudice payments or other benefits up to a value of £1000;
- (d) To undertake all of the Council's functions in connection with:
- Local Authority Legal Services
  - Local Land Charges and Searches/Enquiries
  - Community Legal Service
  - Data Protection and Freedom of Information
  - National Assistance Act 1948 and subsequent legislation
- (e) 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.

- (f) 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.
- (g) To authenticate any documents necessary for the exercise of any function of the Council.
- (h) To sign Statements of Truth in civil proceedings as required by the Civil Procedure Rules 1998
- (i) To have overall responsibility for information governance
- (j) To carry out the licensing functions of the Council relating to
  - (i) 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
  - (ii) 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
  - (iii) Decisions as to the revocation of HMO licences under the Housing Act 2004
  - (iv) Smoke free premises under the Health Act 2006.
  - (v) Motor salvage and scrap metal
  - (vi) 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\*
  - (vii) Licensing functions under the Gambling Act 2005
  - (viii) [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#)
- (k) Limits and Controls

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

**3.9.56 Specific Functions delegated to the Chief Finance Officer (s151)**

- (a) To have responsibility for the Council's financial affairs in accordance with s151 of the Local Government Act 1972 and to act as financial adviser to the Council, Executive and committees.
- (b) To have overall responsibility for the Council's finance functions, systems and controls either directly (where services are under the management of the s151 Officer) or indirectly (where the services are managed elsewhere within or external to the Council), including:
  - (i) Accountancy (including banking)
  - (ii) Investments, borrowing and financing
  - (iii) Insurances
  - (iv) Housing and Council Tax Benefits
  - (v) Council Tax, NNDR and other Revenues
  - (vi) Internal Audit (including matters arising from the Internal Audit Company)
  - (vii) Debtors and Creditors
  - (viii) The Collection Fund
  - (ix) Investigation of fraud and financial impropriety
  - (x) The control of funds and reserves
  - (xi) Risk Management
  - (xii) Financial governance
- (c) To deal with routine matters of day-to-day administration, management and control within the remit of the Chief Finance Officer (s151) or matters which are necessary for the proper performance of the Chief Finance Officer (s151) 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 £50,000 in each case and to write off amounts over £50,000 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).

**3.9.67 General (executive and non-executive) Functions delegated to Directors**

- (a) To deal with routine matters of day-to-day administration, management and control or matters which are necessary for the proper performance of their 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.
- (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 Head of Service Contracts, Commissioning and Procurement, 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.

**3.9.87 General (executive and non-executive) Functions delegated to Heads of Service**

- (a) To deal with routine matters of day-to-day administration, management and control within the remit of the Head of Service or matters which are necessary for the proper performance of their 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 Chief Finance Officer (S151) 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, procure, and commission goods and services and to undertake, procure and commission works.
- (e) After consultation with the Head of Service Contracts, Commissioning and Procurement, to accept a tender where delay could prevent a contractor commencing in accordance with the date of site possession.

**3.9.9 Specific Officer Delegations for Non-Executive (council) functions**

**Planning and Development Management**

The Director of Economic Regeneration & Place and Head of ~~Service Strategic~~ Planning, ~~Policy and Economic Development~~ are authorised 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.
- (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 for which the Secretary of State must be consulted as identified in the Town and Country Planning (Consultation) (England) Direction 2009 or in any successor document 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 with the exception of minor applications for residential development which are in accordance with the NPPF and the Written Ministerial Statement.
- (iii) Any application made by or on behalf of a District Councillor or his/her partner.
- (iv) 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).
- (v) 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.
- (vi) 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.
- (vii) 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.

(viii) Any proposed tree preservation order which is the subject of a valid objection.

(ix) Any applications submitted for determination by or on behalf of the authority for its own developments or on its owned land are presented to Planning Committee unless they are 'minor applications' and no objections have been received.

(c) Definitions

Significant departures are those applications listed in the Town and Country Planning (Consultation) (England) Direction 2009 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 outside town centres which includes or consists of retail, leisure or office use and which:

(a) Is to be carried out on land which is edge of centre, out of centre or out of town; **AND**

(b) Is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; **AND**

(c) Consists of or includes the provision of a building or buildings where the floor space to be created by the development is:

- 5,000 square metres or more; **OR**

- Extensions of new development of 2,500 square

metres or more which when aggregated with existing floorspace, would exceed 5,000 square metres.

- (iii) Development having an adverse impact on the outstanding universal value, integrity, authenticity and significance of world heritage sites or their setting, including any buffer zone or its equivalent, and being development to which English Heritage has objected to and that objection not having been withdrawn.
- (iv) Playing field development where the land subject of the application:
- (a) Is land of a local authority: **OR**
  - (b) Is currently used by an educational institution as a playing field; **OR**
  - (c) Has at any time in the 5 years before the application is received been used by an education institution as a playing field: **AND**
  - (d) Sport England has been consulted and has objected on one or more of the following grounds:
    - That there is a deficiency in the provision of playing fields in the area of the Local Planning Authority;
    - That the proposed development would result in such a deficiency; **OR**
    - That the proposed development involves a loss of playing field and an alternative or replacement playing field is proposed, that alternative or replacement does not match (whether in quantity, quality or accessibility) that which would be lost.
- (v) Major development in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw even after discussion with the Local Planning Authority.
- (d) Major applications are defined as follows:
- ten (10) or more units of residential accommodation or site area exceeding 0.5 hectares where it is not known how many dwellings are to be created
  - 
  - new none residential development over 1,000 square metres

- or where the site area is 1 hectare or more
- change of use over 1,000 square metres
- amendment or removal of a condition relating to a major development
- 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) Other 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

## 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) ~~to elect a person to presides~~ if the Chairman and Vice-Chairman are absent, ~~to choose a person to preside, with~~ such a person not being a member of the Executive;
- (b) receive apologies for absence;
- (c) receive any declarations of interest from councillors;
- ~~(bd)~~ to elect a Chairman and ~~appoint a~~ Vice-Chairman;
- ~~(ee)~~ to approve the minutes of the last meeting;
- ~~(df)~~ to receive any announcements or communications from the Chairman and/or the Chief Executive;
- ~~(eg)~~ 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;
- ~~(fg)~~ 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);
- (h) to report regarding the discharge of executive functions for the year ahead;
- ~~(gi)~~ to appoint committees and to appoint Chairs and Vice-Chairs of committees for the municipal year in accordance with 1.2 below;
- (j) to approve the calendar of meetings for the municipal year;
- (k) to appoint Members to outside bodies for the municipal year;

(h) other business specified in the agenda.

## 1.2 Selection of councillors on committees, other meetings and outside bodies

At the ~~Annual~~annual Meeting, the Council will

(a) decide which committees to establish for the municipal year including the size of those committees;

(b) decide the allocation of seats to political groups in accordance with the political balance rules;

(c) appoint councillors to service on each committee including the Chairman and Vice Chairman and substitute councillors who may exercise the powers set out in rule 28 of these rules.

(d) Appoint the chairs of the Community Engagement Forums

(e) appoint to those committees and outside bodies except whether appointments to this bodies have been delegated by the council or are exercisable by the Executive;

~~appoint the Standing Committees of the Council. The Standing Committees of the Council will be:~~

- ~~• Planning Committee – 9 councillors~~
- ~~• Licensing and Appeals Committee - 10 councillors~~
- ~~• Policy Review Committee – 7 councillors~~
- ~~• Scrutiny Committee - 7 councillors~~
- ~~• Audit Committee – 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-two 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

2.1 Ordinary meetings of the Council will take place in accordance with a programme ~~to be fixed by the Council.~~ decided at the Council's annual meeting. Ordinary meetings will:

- (a) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (b) receive apologies for absence;
- (c) receive any declarations of interest from councillors;
- ~~(bc)~~ approve the minutes of the last meeting;
- (cd) ~~receive any declarations of interest from councillors;~~
- ~~(de)~~ 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;
- ~~(ef)~~ receive any announcements from the Chairman, Leader and, Members of the Executive or the Chief Executive; ~~;~~
- (g) receive any petitions;
- (h) receive questions from and provide answers to the public in relation to any questions submitted in accordance with Rule 10.1;
- (i) receive and answer questions submitted by councillors, in accordance with Rule 11.2
- (j) receive reports from the Executive and receive questions and provide answers on any of those reports;



- ~~(k) receive reports from the Council's committees and receive questions and provide answers on any of those reports;~~
- ~~(l) consider motions;~~
- ~~(m) consider any other business specified in the summons to the meeting;~~
- ~~(n) receive any reports that the Chief Executive, Monitoring Officer or Section 151 Officer consider appropriate.~~
- (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 ~~4-four members of the Council~~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-seven~~ clear working days of the presentation of the requisition.

### 3.2 Business

~~The summons to an An Extraordinary extraordinary~~ meeting of the Council shall ~~set out the consider only such items of business to be considered thereat and no business other than that set out in the summons shall be considered at that 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-five~~ clear working days before a meeting, the Chief Executive will send a summons signed by him or her to every member of the Council 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. Any power or duty of the Chairman in relation to the conduct of the meeting may be exercised by the Vice Chairman, or in the absence of the Vice Chairman, the person elected to preside at the meeting. 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 of the Council.

## 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 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~~three 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~~six 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

Each question must provide the following information:

- Name and address and contact details of the person asking the question;
- The name of an organisation if the question is being asked on their behalf;
- Details of the question to be asked

- The name or position of the member of the Council to whom the question is directed to;

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~~ six months unless there has been a material change of circumstances;
- 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 post-holder 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~~three 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 members of the Council~~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~~five councillors, must be delivered to the Chief Executive at least ~~7~~seven 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 the notice was received, unless the one of the five councillors who are signatories for the motion, 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~~six months unless there has been a material change of circumstances.

### 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~~five 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 may 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 Policy Review Committee after the Address has been given to Council, answer questions on the Address, and consider the formal response of that committee in due course.

#### **(c) Results of consequent discussions and deliberations:**

The results will be:

- (i) reported to the 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-six~~ months cannot be moved unless the notice of motion is signed by at least ~~5-five~~ 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-six~~ months cannot be moved unless the notice of motion or amendment is signed by at least ~~5-five~~ councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment ~~within a further period of 6-six~~ 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 c~~asting 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

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

A recorded vote is required in the following circumstances:

- (a) Any vote required to be recorded by law<sup>1</sup>, or;
- (b) Any vote where, before the vote is taken on any matter before Council, any ~~5~~five 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~~two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. This principle will also apply where there is more than one position to be filled and there are more nominees than positions.

## **20. Minutes**

### **20.1 Signing the minutes**

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

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

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

---

<sup>1</sup> The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 introduced a requirement for recording votes on budget meetings

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 of the Council 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 the proceedings at any meeting, 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 carried by a majority of the councillors present at the meeting. 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. Audio/Visual Recording and Photography at Meetings**

### **26.1 Any person wishing to recording a council meeting either visually or through audio or take photographs at a meeting must abide by the Protocol on Audio/Visual Recording and Photography at Meetings outlined in Part 5.8 of this constitution.**

### **26.2 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 - [2425](#), 27, 28 and 31 apply to meetings of committees and sub-committees<sup>2</sup>. [Rules 15.1 and 15.6 \(a\) do not apply to meetings of the Planning Committee.](#)

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.

### **[2728](#) 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.

### **[2829](#) Appointment of substitute members of committees and sub-committees**

#### **[29.1](#) (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~~ team 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

---

<sup>2</sup> Subject to Article 13.9 – procedures may be adjusted in regulatory committees to ensure a fair hearing.

**2930 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 councillor will be allowed to speak after any presentation, but before the debate. The councillor will be allowed to speak for no more than ~~5~~ five 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. Any person wishing to speak must gain permission from the Chair and will only be permitted to ~~will normally allow one person to~~ speak on each item for a maximum of ~~5~~ five minutes, any variation to be at the discretion of the Chair.

**31. Withdrawal from the meeting due to a Disclosable Pecuniary Interest**

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

## **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) and certain rules apply to the decisions of Individual Members and Officers.
- 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 Councillors' 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 ~~five~~5 clear working days' notice of any meeting by posting details of the meeting at its principal offices and on its website - [www.selby.gov.uk](http://www.selby.gov.uk)

### **5. Notice of Private Executive Meetings**

- 5.1 Where the Executive is likely to consider an item which contains exempt or confidential information and will require the public to be excluded from the meeting to prevent the disclosure of information, a notice must be published 28 clear days in advance of the meeting that includes a statement of the reasons for the meeting being held in private for that item. The notice should include details of how representations can be made.
- 5.2 Where the report contains confidential information as defined below the public must be excluded.
- 5.3 At least ~~5~~five 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~~five 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, copies of the relevant report and 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.~~

6.3 Where copies of the agenda and reports open to the public are not made available for inspection in any of the above ways, an item of business will not be considered unless by reason of special circumstances, which shall be specified in the minutes and where the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

## 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 copying, 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 to any person on payment of a charge for copying, postage and any other costs.

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~~Records of Decisions Taken at

## Meetings

8.1 The Council will make available copies on payment of a charge for copying, postage and any other costs of the following for ~~6~~six years after a meeting:

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

## 8.2 Records of Decisions Taken by Individual Executive Members

As soon as reasonably practicable after an individual Member has made an executive decision, the member must produce or instruct the Proper Officer to produce a written record of that executive decision which includes the following information:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the member when making the decision;
- (d) A record of any interest declared by an executive member consulted by the member who made the decision together with a note of any dispensation granted in respect of that interest.

## 8.3 Records of Decisions Taken By Officers

As~~d~~ soon as reasonably practicable after a significant operational decision taken by an officer in relation to a Council function, the officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report (if any) in relation to the decision made. The record will include:

- (a) a record of the decision including the date it was made;
- (b) A statement of the reasons for it;

(c) Details of any alternative options considered and rejected by the officer at the time of making the decision; and

(d) A record of any interest declared by an executive member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

The Council will make available copies of the written record on payment of a charge for copying, postage and any other costs of the following for six years after the date of the decision to which it relates.

## 9. Background papers

### 9.1 List of background papers

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

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

This will ~~excluding~~ any published works or those which disclose exempt or confidential information (as defined in Rule ~~4011~~) 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~~ the Public from Meetings

#### **11.14 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. [Likewise, public access to reports and background papers will also be excluded.](#)

#### **11.22 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 [the disclosure of which to the public is prohibited by or under another Act or cannot be publicly disclosed](#) by Court Order.

#### **11.33 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 [\(as outlined in paragraph 11.8 below\)](#), the description of the exempt information giving rise to the exclusion of the public, and
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

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

#### **11.4 Meaning of exempt information**

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

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.2 - Access to Information Procedure Rules

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



<b>Category</b>	<b>Condition</b>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<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>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<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>

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 Councillors 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 Councillors 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 Councillors' access to documents**

### **15.1 Rights to copies**

Subject to Rule 14.2 (Material relating to key decisions), any Overview and Scrutiny Committee Councillors 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 Councillors 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. COUNCILLORS ACCESS – NEED TO KNOW**

### **16.1 Meaning of the Need to Know**

Councillors 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

Councillors should:

- (i) justify the request in specific terms, unless circumstances exist where a Councillor's need to know will be presumed – for example where a Councillor 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 Councillor'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 Councillor will not, unless he/she agrees, normally be provided to another Councillor;
- ~~(v)~~ (vi) documents will not be disclosed where the relevant Director believes that use of those documents by a Councillor may prejudice the Council's or the public interest; and
- ~~(vi)~~ (vii) the level of resources required to deal with locating and supplying documents.

## 16.4 Procedure

Whether a Councillor 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 Councillor concerned from giving evidence in Court, or of penalising the Councillor for so doing.

All internal documents and copies produced to any Councillor 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 COUNCILLORS**

**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 Councillor who wishes to disclose that information to approach the relevant Director, for a decision whether that information should be disclosed. Disclosure by a Councillor 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 Councillor 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 Councillor, and to the Councillor's right of freedom of expression and the particular importance of that right for elected representatives'

## **18. PUBLIC ACCESS TO OTHER INFORMATION - FREEDOM OF INFORMATION**

**18.1** Where a member of the public makes a request for information under the Freedom of Information (FOI) Act 2000, they will be informed in writing by the Council whether it holds such information, and if that is the case, they will have that information communicated to them, unless an exemption applies.

**18.2** An FOI request must be in writing, state the name of the applicant and an address for correspondence, and describe the information requested. A request will be treated as made in writing where the text is transmitted by electronic means (e-mail), is received in legible form, and is capable of being used for subsequent reference.

**18.3** FOI requests will be dealt with by the Lead Officer for the relevant service area.

**18.4** FOI requests must generally be dealt with within 20 working days of receipt.

**18.5** The Council will not comply with FOI requests where one or other of the exemptions applies. These include:

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

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

## **19. RIGHTS OF APPEAL**

### **19.1 Appeals against refusals of FOI requests**

If an FOI request is refused by the Council, the applicant may request a review of that decision by the Solicitor to the Council. If the [complaint review](#) 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**

(a) 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 Councillor is denied inspection of a document**

If a Councillor 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**

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.2 - Access to Information Procedure Rules

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

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The Framework for executive decisions**

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

### **2. Process for developing the Framework**

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

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

### **3. Decisions outside the Budget and Policy Framework**

- (a) Subject to the provisions of the Financial Procedure Rules the Leader of the Council, Executive and any officer, (or any joint arrangements) discharging Executive functions may only take decisions which are in



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

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

#### **4. Urgent decisions outside the Budget and Policy Framework**

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

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

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

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

- (a) Where the Scrutiny Committee is of the opinion that an Executive

decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget or is not otherwise authorised by the terms of this Constitution, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

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

The Council may:

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

## EXECUTIVE PROCEDURE RULES

### 1. Role and Composition 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. and
- (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~~four 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, Statutory 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-two and no more than 9-nine 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-two 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, Statutory 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-Executive~~ 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; where the decision taker is an individual, his/her name and title, it any and where the decision taker is a body, its name and a list of its members;~~
- (c) the date on which, or the period within which, the decision will be taken;
- (d) ~~a list of the documents submitted to the decision taker for consideration in relation to the matter.~~
- (e) ~~the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed are available;~~
- (f) ~~that other documents relevant to this matters may be submitted to the decision taker; and~~
- (g) ~~the procedure for requesting details of those documents (if any) as they become available.~~

~~Particulars of Key Decisions included in the Forward Plan need not include exempt information and may not include confidential information.~~

- (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~~five 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 in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

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.

However a non-Executive Councillor may speak at any public meeting of the Executive if he/she first obtains the consent of the Leader or the Chair of the meeting if different.

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 the process set out in the Access to Information Procedure Rules in Part 4 of this Constitution will be followed.

### 6.4 Agenda

The Agenda will generally follow the format below

- (a) apologies for absence
- (ab) consideration of the minutes of the last meeting;
- (bc) declarations of interest, if any;
- (cd) 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;
- (de) consideration of reports from Overview and Scrutiny Committees;
- (ef) reports from Statutory Officers in respect of their functions;
- (fg) 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.

### 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~~three 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 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~~three.

#### **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**

As soon as reasonably practicable after any meeting of the Executive, the Proper Officer must ensure that a written statement is produced for every executive decision which includes: will, as soon as practicable, produce a written statement which must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the meeting; and
- (d) a record of any conflict of interest or Disclosable Pecuniary Interest declared by a member relating to the matter decided and if applicable, a note of any dispensation granted in respect of that interest.
- ~~(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)(e) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision-making body.~~

## **8. Record of Executive Decisions Taken by the Leader**

**8.1** As soon as reasonably practicable after a decision has been taken in relation to executive arrangements by the Leader, the Proper Officer will prepare a written statement of that decision which includes:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the Member at the time of making the decision; and
- (d) a record of any conflict of interest or Disclosable Pecuniary Interest declared by any Executive Member consulted by the Member who made the decision and if applicable, a note of any dispensation granted in respect of that interest.

## **9. Record of Executive Decisions Taken by Officers**

**9.1** As soon as reasonably practicable after a key or significant operational decision has been taken by an officer, he/she will prepare a written statement of that decision which includes:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer

at the time of making the decision; and

(d) a record of any conflict of interest or Disclosable Pecuniary Interest declared by any Executive Member consulted by the officer who made the decision and if applicable, a note of any dispensation granted in respect of that interest.

#### **810.4 Call-in**

The Call-In process is outlined in paragraph seven of the Overview and Scrutiny Procedure Rules (Part 4.5).

~~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.~~

## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. Application of Rules

These rules apply to the Overview and Scrutiny Committees set out in Article ~~6~~six 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 Overview and Scrutiny Committee only.

### 2. Composition and Terms of Reference

The Overview and Scrutiny Committee will comprise a maximum of seven members of the Council with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. Substitute members shall be entitled to attend a meeting of the Scrutiny Committee in place of a regular member. All Councillors (except Members of the Executive) may be members of an Overview and Scrutiny Committee and their sub committees. 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 non-voting co-opted members. ~~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 Part 3.5 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~~two 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~~three 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.

The adopted role profiles for the Chairs of Overview and Scrutiny Committees are set out in Part 3.5 of the Constitution – Responsibility for Functions.

## 6. Work programmes and agenda items

**6.1** Each year all Overview and Scrutiny Committees will formulate a work programme setting out their planned work for the year ahead and in doing so shall take into account the wishes of all members on the committee irrespective of political affiliation.

During each municipal year the Chairs of Overview and Scrutiny Committees will meet with the Executive, preferably on a quarterly basis, to discuss the work programmes of the committees and that of the Executive.

**6.2** 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. On receipt of such a request, ~~the~~ the Chief Executive shall comply with such requests.

**6.3** Any member of the Council ~~councillor~~ shall be entitled to give written notice to the Chief Executive to have an item relevant to the functions of the Committee included on ~~an Overview and Scrutiny~~ the 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.

**6.4** 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



Selby District Council Constitution - Part 4 - Rules of Procedure  
4.5 - Overview and Scrutiny Procedure Rules

- (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).

- (b) During the 5-five clear working day period between a decision being published and its implementation, it may be called in to be reviewed by the Scrutiny Committee ~~Chief Executive shall call-in a decision for scrutiny by the Scrutiny Committee~~ if so requested in writing by any 5 five councillors who are not members of the Executive and shall then notify the Chief 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-seven 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-five 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.

- (c) 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”
- (d) 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.
- (e) If the Scrutiny Committee fails to meet within 14 clear working days of receiving a valid call-in request, or does meet but does not refer the matter back to the Executive or on to Council, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 14 clear working day period, whichever is the earlier.
- (f) 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-provision to make changes 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.

- (g) If the Council does not refer the decision back to the Executive, the decision will become effective on the date of the Council meeting.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent or to other decision made as outlined in the Executive procedure rules. 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) apologies for absence;
  - (ii) minutes of the last meeting;
  - (iii) any declarations of interest;
  - (~~iii~~iv) the forward plan/work programme of the committee
  - (iv) any response from the Executive to a previously-forwarded report;
  - (vi) the business otherwise set out in the agenda for the meeting.

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.5 - Overview and Scrutiny Procedure Rules

- (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 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~~seven 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-two months. Where the original submission was published, the response shall also be published and where the original submission was copied to separate individuals, the response shall also be circulated to the same individuals. Where a report is made to an outside organisation the Chief Executive shall request consideration of it and a response.

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

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

## **10. Joint Overview and Scrutiny Committees**

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

## **COMMUNITY ENGAGEMENT FORUM PROCEDURE RULES**

### **1. Community Engagement Forums (CEFs)**

## 1.1 Structure of CEF Meetings

CEF meetings will be structured in accordance with a decision of the CEF Partnership Board but the agreed arrangements shall provide for:

(a) A Community Forum:

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

(b) the Partnership Board:

The Partnership Board will be responsible for:

- Setting the structure and theme of the Forums meetings having regard to the need to include topics of interest to the community~~Community Sessions.~~
- Making recommendations arising from issues discussed at Forums and Partnership Board CEF meetings to the Council and ~~to~~ partners.
- Developing, monitoring and maintaining the Community Development Plan for each CEF Area identifying and mitigating any risks.
- Monitoring the Community Fund.
- Reviewing applications for grant and project funding from the CEF Community Fund and making requests for grants to be administered according to the application criteria, CEF Funding Framework and governance arrangements.
- Reporting annually to the Council on the work of the CEF and progress against its Community Development Plan ~~and progress against it.~~

## 1.2 The Statutory Partners

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

- Selby District Council
- North Yorkshire County Council

All North Yorkshire County Councillors from divisions covering areas contained within the CEF are admitted as voting members of the CEF as Statutory Partners.

## 1.3 Co-opted Members

In addition to the statutory partners listed in paragraph 1.2 there will be up to 8 admitted partners on the Partnership Board. Normally the 8 would comprise up to 4 town or parish council representatives and up to 4 other community representatives co-opted by the Partnership Board, but the Partnership Board shall be free to determine a different proportion if it sees fit.

Co-opted members must be formally approved by the Partnership Board and will have voting rights in respect of any decisions or recommendations made by the Board.

## 1.4 Number and coverage of CEFs

There shall be as many CEFs as the Council will, from time to time, determine (currently 5 CEFs) provided that every community in Selby District is included within a CEF area.

## 1.5 Appointment of Chair and Vice-Chair

The Council will appoint a Chair for each CEF who will hold office for the municipal year. The Chair must be a member of the CEF (either a Councillor, a Statutory partner or a Co-opted Member).

Each CEF Partnership Board will appoint a Vice-Chair from its members who will hold office for the municipal year. This appointment will be confirmed by each CEF as the first meeting of the Board that follows the Council meeting at which the Chair was appointed.

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

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

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

## **1.6 Meetings of Community Engagement Forums**

### **(a) Frequency**

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

### **(b) Venue**

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

### **(c) Agenda**

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

## **1.7 Attendance of non-members of CEFs**

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

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

## **1.8 Confidentiality**

Reports to the Partnership Board which are not for publication under the Access to Information Procedure Rules on the grounds they contain confidential or exempt information shall be treated as confidential and shall not be disclosed by a Partnership Board member.

## **1.9 Minutes of Community Engagement Forum and Partnership Board meetings**

### **(a) Approval**

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

(b) **Accuracy**

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

**1.10 Councillors' Conduct**

Councillors must conduct themselves at CEF meetings in accordance with the Code of Conduct for Councillors attached at Part 5 of the Constitution.

**1.11 Conduct of Statutory Partners and Co-opted Members**

Statutory Partners must conduct themselves in accordance with the Code of Conduct for Councillors of the North Yorkshire County Council

Co-opted Members must conduct themselves in accordance with the Code of Conduct for Members of the CEF attached at part 5 of the Constitution.

**1.12 Quorum**

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

**1.13 Method of Voting**

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

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





## **PETITIONS PROCEDURE RULES**

### **PETITIONS**

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

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

#### **1. What is a petition?**

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

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

~~1.3 You can submit and sign a petition on the Council's website and further guidance is available at [www.selby.gov.uk](http://www.selby.gov.uk).~~

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

#### **2. What should a petition contain?**

~~A petition should include:~~

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

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

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

~~2.3 The names of at least 100 petitioners (which can include the petition organiser) who live, work or study in the Selby District. Where the petition is in paper form, this should include a name, address and actual signature from each petitioner. Where the petition is in electronic form, a list of the names and addresses of the petitioners will suffice. If you want your petition to be debated at a meeting of the Council ("A Petition for Debate"), or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report ("A Petition to hold an Officer to Account"), your petition will need to contain a higher number of signatories or petitioners (see below).~~

~~2.4 If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that the Council can ensure that your petition is considered along with original matter.~~

### ~~3. Who should you send a petition to?~~

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

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

~~Please address petitions to:~~

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

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

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

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

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

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

#### **4.1 Ordinary Petitions**

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

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

#### **4.2 Consultation Petitions**

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

#### **4.3 Statutory Petitions**

Particular Acts of Parliament require the Council to consider petitions, for

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

#### **4.4 Petitions for Debate**

~~If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 1,230<sup>1</sup> signatories or petitioners (this is reduced to 1000 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area).~~

#### **4.5 Petitions to Hold an Officer to Account**

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

### **5. The Petitions Website**

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

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

---

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

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

~~will be notified to the petition organiser and put on the website within 5 clear working days of that consideration.~~

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

## ~~6. The role of Ward Councillors~~

~~6.1 When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.~~

~~6.2 When the petition is reported to the person or body within the authority who can take a decision on the matter to which it relates, the relevant Ward Councillor will be invited to attend and to address the decision-taker for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.~~

## ~~7. What happens when a petition is received?~~

~~7.1 Within 2 clear working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.~~

~~7.2 In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant officer to take appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.~~

~~7.3 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will within 5 clear working days of receipt of the petition provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 3 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.~~

~~7.4 Whilst the Council is committed to dealing with petitions promptly, a petition will normally need to be received at least 10 clear working days before a relevant meeting if it is to be reported to that meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary for the Petitions Officer to decide that the petition will be held over until the following meeting of the relevant body.~~

~~7.5 At the same time as responding to the petition organiser, the Petitions Officer will notify party group spokespersons and Ward Councillors of receipt of the petition.~~

~~7.6 Within 5 clear working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.~~

~~7.7 At each stage of the consideration of the petition, within 5 clear working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.~~

~~7.8 The process after this stage differs for the various types of petitions – see below.~~

## ~~8. What happens to a Consultation Petition?~~

~~8.1 Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application.~~

~~8.2 The petition will be reported to the person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees.~~

## ~~9. What happens to a Statutory Petition?~~

~~9.1 Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, the Council will report it to the next available meeting of the Council in accordance with the statutory requirements.~~

## ~~10. What happens to Petitions for Debate?~~

~~10.1 Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.~~

~~10.2 As set out below, the petition organiser will be invited to address the meeting for up to 3 minutes on the subject of the petition.~~

**11. ~~What happens to a Petition to Hold an Officer to Account?~~**

~~11.1 Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.~~

~~11.2 In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.~~

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

**12. ~~What happens to an Ordinary Petition?~~**

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

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

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

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

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

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



~~be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of Council, or a Committee of the Council for determination. The Petition Organiser will receive written confirmation of this decision.~~

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

#### ~~14. Appeal to an Overview and Scrutiny Committee~~

~~14.1 If the petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to appeal within 20 clear working days of being notified of the authority's decision on the petition. It is helpful to everyone, and can improve the prospects for a review if the Petition Organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.~~

~~14.2 Within 5 clear working days of receipt of intention to appeal, the Petitions Officer will determine which is the most appropriate Overview and Scrutiny Committee meeting date and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Committee and will invite the petition organiser to attend the meeting and to address the Committee for up to 3 minutes on why s/he considers that the authority's decision on the petition is inadequate.~~

~~14.3 At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the Council's response was insufficient.~~

~~14.4 The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine it has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council and arranging for the matter to be considered at a meeting of the Full Council. Once the appeal has been considered the Petition Organiser will be informed of the results within 5 clear working days.~~

#### ~~15. The role of the Petition Organiser~~

~~15.1 The petition organiser will receive acknowledgement of receipt of the petition within 2 clear working days of its receipt by the authority.~~

~~15.2 Where the petition is not accepted for consideration (see Paragraph 16 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.~~

~~15.3~~ Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 5 clear working days of receipt by the authority as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

~~15.4~~ The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

~~15.5~~ The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 clear working days of such decision.

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

#### ~~16. Petitions which will not be reported~~

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

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

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

- ~~• it does not follow the guidelines above~~
- ~~• it is rude, inflammatory, abusive, offensive, defamatory, scurrilous or time-wasting,~~
- ~~• it is defamatory, frivolous, vexatious, discriminatory or otherwise offensive, or contains false statement~~
- ~~• it is too similar to a recent petition received by the Council within 6 months~~
- ~~• it discloses confidential or exempt information, including that protected by a court order or Government department~~
- ~~• discloses material that is considered to be commercially sensitive.~~
- ~~• it contains advertising statements~~

- ~~• it makes criminal accusations~~
- ~~• it refers to an issue which is currently subject to a formal Council complaint, Local Ombudsman complaint or any other legal proceedings~~
- ~~• it does not relate to something which is the responsibility of the authority, or over which the authority has some influence.~~

## **FINANCIAL PROCEDURE RULES – Appendix B**

### **Introduction**

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

These Rules are approved by the Council and apply to every councillor and officer of the authority and anyone acting on its behalf.

Section 151 of the Local Government Act 1972 requires that:

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

The Chief Finance Officer (Selby District Council/Assistant Director Strategic Resources (North Yorkshire County Council) is appointed for the purposes of Section 151. He/she shall also be responsible for maintaining a continuous review of these Rules and submitting any recommendations for additions or changes necessary to the Executive for approval. He/she shall also be responsible for reporting, where appropriate, breaches of the Rules to the Council and/or Executive.'

These Rules, including the financial levels set out herein, may be varied or revoked only by resolution of the Council.

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

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

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

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

to action.

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

## 1. Revenue Expenditure

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

- (h) Proposals to carry forward any underspends shall be approved by the Executive.

## 2. Capital Expenditure

- (a) The Executive shall, during each financial year and after consultation with the relevant Overview and Scrutiny Committee(s), approve a capital expenditure programme for the next following and subsequent 2 financial years. Such programmes shall be in a form and in accordance with deadlines approved by the Chief Finance Officer and in accordance with the Council's Financial Strategy. Such programmes shall be prepared by the respective Director, in conjunction with the Chief Finance Officer for submission to the Executive and then Council for approval.
- (b) Before embarking on any scheme identified as 'non-routine' included in the approved capital expenditure programme, the appropriate officer shall submit details to the Executive and shall incorporate a statement prepared in conjunction with the Chief Finance Officer, showing estimated costs and probable initial and ultimate revenue charge as well as the proposed method of financing.
- (c) If, during the course of the financial year, the need for a capital scheme is identified by the Executive, the scheme must be submitted to the Council with a recommendation that it be added to the capital expenditure programme in accordance with the Budget and Policy Framework Procedure Rules.
- (d) If, during the progress of a scheme, it becomes apparent that the estimated costs originally submitted are likely to be exceeded by £50,000 or more, the relevant Director shall report the facts immediately to the Executive.
- (e) The final certificate of completion of any contract shall not be issued until the appropriate officer, architect, engineer or consultant has produced to the ~~Chief Finance Officer~~relevant Director a detailed statement of account and all relevant documents as required.
- (f) The Chief Finance Officer shall to the extent he/she considers necessary examine final accounts for contracts and he/she shall be entitled to make all such enquiries and receive such information and explanations as he/she may reasonably require in order to satisfy himself/herself as to the accuracy of the accounts.
- (g) The final cost of any scheme, when ascertained, shall be reported to the Executive or appropriate Executive Councillor and the Council by the Chief Executive, Statutory Officer or Director concerned and the Chief Finance Officer.

### **3. Monitoring and control of revenue and capital expenditure**

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

### **4. Virement**

- (a) Virement is a transfer of budget provision within or between budget headings and is an important mechanism in managing budget efficiently within cash limits.
- (b) Virements within approved service revenue expenditure budgets may be agreed by the Chief Finance Officer subject to the limits set out below.
- (c) The approval of the Executive shall be required where the virement is outside the limits set out below, is contrary to the Budget and Policy Framework Procedure Rules, or where the Chief Finance Officer so requires.
- (d) Virement does not create additional recurring overall budget provision.
- (e) Virements are limited to £50,000 both from and to an individual budget in any one financial year.
- (f) Virement is not allowed between the General Fund and Housing Revenue Account nor is it permitted between capital and revenue.
- (g) Virement is not allowed from the following budgets:
  - i) Insurances
  - ii) NNDR
  - iii) capital financing costs
  - iv) internal recharges
  - v) income
- (h) Virement is not allowed from carry-forward budgets.

### **5. Asset Register**

- (a) An Asset Register is maintained by the Chief Finance Officer for the management of the Council's fixed asset accounting. A desktop review of the register is carried out annually and a full review is carried out every 5 years by an independent valuer.
- (b) An asset for inclusion in the Register is defined as a fixed asset, over a value of £10,000 and with a life and use of over one year.
- (c) Assets are adjusted, where appropriate, for depreciation and where

repairs and maintenance expenditure materially adds to the life of the asset.

- (d) It is the responsibility of the Chief Executive, Statutory Officers and Directors to immediately notify any amendments, deletions or additions to the Chief Finance Officer – and provide any information or evidence required. This is also required for insurance purposes.

## 6. Disposal of Land and Capital Assets

### (a) Definitions

- (i) 'Land transaction' means the ~~acquisition or~~ disposal of, or other dealing with land whether or not buildings, plant and equipment, fixtures and fittings, or other assets are included in that transaction.
- (ii) 'Major disposal' means a land transaction which consists of either a disposal of the freehold where the consideration exceeds ~~£50,149,000,999~~, or the grant of lease for more than 7 years or where the rent exceeds ~~£20,000,49,999~~ per annum or where the premium exceeds ~~£50,000,149,999~~.
- (iv) 'Best Consideration' is a principle established by s.123 of the Local Government Act 1972 but has since been extended to allow authorities to dispose of land at less than 'best consideration' subject to it being for certain specific uses, e.g. economic and social well-being. A discount of up to £2 million could be given if justified.

### (b) Approval of major disposals

The principal ~~terms and~~ method of each major disposal must be approved by the Executive. When determining such matters the relevant Director, in conjunction with the Chief Finance Officer and the Solicitor to the Council shall prepare a report for the Executive which shall:

- Specify the land to be disposed of.
- Confirm whether that land has been declared surplus to the Council's requirements.
- Advise upon the proposed method of disposal, and provide the reasons for selecting that method.
- In matters where the Council must achieve best consideration, confirm that the proposed method of disposal which has been selected is most likely to achieve this.
- In matters where it is proposed that the disposal should be for less than best consideration, give reasons for and against seeking best consideration and following



consultation with the Solicitor to the Council, specify the relevant legal powers of the Council to accept less than best consideration.

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

Officer.

- (ii) The decision record must include details of estimated proceeds and their application.
  - (iii) If the proposal represents less than best consideration then following consultation with the Solicitor to the Council the decision record must specify the relevant legal powers of the Council to accept less than best consideration.
- (f) Formalities
- (i) All contracts and other documentation entered into pursuant to all land transactions shall be in writing, and shall be signed or sealed as appropriate.

## 7. Inventories

- (a) Each Director shall prepare and keep up-to-date an inventory, wherein shall be recorded an adequate description of moveable plant and machinery, transport, furniture, fittings and equipment, office machinery and similar property belonging to the Council and under his/her control. The form in which the inventories shall be kept and the extent to which property shall be recorded is to be determined by the appropriate Director with the concurrence of the Chief Finance Officer.
- (b) Each Director shall be responsible for maintaining an annual check of all items of the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- (c) The Council's property shall be marked as property of the Council and shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Director concerned.
- (d) The Chief Finance Officer or his/her representative may at all reasonable times have access to all such property of the Council and may make such checks and tests as he/she deems reasonable.
- (e) Responsibility for the inventory of all computer hardware and software shall lie with the ~~Director of Corporate Services-Chief Finance Officer~~.
- (f) Inventories shall be reviewed from time to time by Directors in consultation with the Chief Finance Officer for the consideration of arrangements for custody and adequate insurance cover.

## 8. Borrowing

- (a) The Chief Finance Officer operation of the Council's borrowing shall be

subject to compliance with the CIPFA Code of Practice on Treasury Management, the Council's Treasury Management Policy Statement and Strategy and the Prudential Code for Capital Investment in Local Authorities.

## 9. Insurances

- (a) Chief Finance Officer shall effect all insurance cover and ~~negotiate~~ agree all claims in consultation with other Directors where necessary.
- (b) Directors shall give prompt notification to the Chief Finance Officer of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.
- (c) Directors shall forthwith notify the Chief Finance Officer in writing of any loss, liability or damage or any event likely to lead to a claim and inform the Police if necessary.
- (d) All appropriate employees and volunteers of the Council shall be included in a suitable fidelity guarantee insurance.
- (e) The Chief Finance Officer shall annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Directors as appropriate.
- (f) Directors shall consult the Chief Finance Officer concerning the terms of any indemnity which the Council is requested to give.
- (g) Directors shall notify the Chief Finance Officer in advance of the acquisition of assets or at the onset of new risks which are likely to require insurance cover, together with an estimate of the cost of the required insurance cover, in order that cover can be arranged once delivery occurs or the risk materialises.
- (h) The Chief Finance Officer shall in matters of urgency undertake to arrange immediate insurance cover where in his/her opinion this is deemed necessary to cover the risks.

## 10. Banking Arrangements

- (a) All bank accounts shall be in the name of Selby District Council and no bank account shall be opened without the authority of the Chief Finance Officer. The Chief Finance Officer shall be authorised, on behalf of the Council, to agree an overdraft facility with the Council's bankers as may from time to time be necessary.
- (b) Supplies of cheques shall be ordered only on the authority of the Chief Finance Officer who shall make safe and efficient arrangements for the control, custody and issuing of cheques. He/she shall also make appropriate arrangements for the safe transit and transmission of cash

and cheques. Main account cheques shall bear the facsimile signature of the ~~Executive Director with s.151 responsibilities or such other officer as the Council may determine~~ Chief Finance Officer. Cheques over £20,000 to have 2 authorised signatures with at least one being a first signatory.

- (c) The computer printed name of the Chief Finance Officer may be used for crossed cheques up to £20,000 and for open cheques up to £200.
- (d) All advance accounts shall be approved by the Chief Finance Officer and be kept on an imprest basis.

#### **11. Imprest/Petty Cash Accounts**

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

#### **12. Treasury Management**

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

accordance with CIPFA's Treasury Management Code of Practice 2009.

### **13. Accounts and Audit**

- (a) The accounts of the Council shall be kept by the Chief Finance Officer and all systems of accounting throughout service areas shall be as agreed with him/her. All accounting procedures adopted shall reflect local government-recommended professional practices and be in accordance with legal requirements. The Chief Finance Officer shall from time to time make such recommendations to the Council regarding the accounting systems and financial operations as he/she may deem necessary.
- (b) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them. Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- (c) A continuous internal audit, under the direction and control of the Chief Finance Officer, shall provide an appraisal and review of the internal control system as a service to all levels of management and the Council as a whole. It will objectively examine, evaluate and report upon the adequacy of internal controls as a contribution towards the proper and efficient use of resources and to minimise the risk of irregularity occurring.

Chief Officers and Directors, acting collectively, shall have the responsibility to establish internal control to:

- (i) ensure adherence to policies and directives in order to achieve the Council's objectives;
  - (ii) safeguard its assets;
  - (iii) secure the relevance, reliability and integrity of data and information, so ensuring as far as possible the completeness and accuracy of records;
  - (iv) ensure compliance with statutory requirements.
- (d) The Chief Finance Officer or his/her authorised representative shall have authority to:
- (i) enter at all reasonable times any Council premises or land;
  - (ii) have access to all records, documents and correspondence relating to any financial transactions of the Council, including

those held by contractors;

- (iii) require and receive such explanations as are necessary concerning any matter under examination;
  - (iv) require any employee to produce cash, stores or any other Council property under his/her control; and
  - (v) require the assistance of employees at all levels of the Council in the preparation of internal audit reports.
- (e) At the end of each financial year, Chief Finance Officer shall submit to the Executive a statement of outturn of all revenue expenditure for approval and presentation to the Council. The Chief Finance Officer shall submit the accounts to the Audit and Governance Committee for approval, in accordance with the Accounts and Audit Regulations; the accounts shall then be reported to the Executive and Council.
- (f) Subject to any instruction given by the Council to the Chief Finance Officer, their systems of accounting control and the form of their accounts and supporting records shall be determined by that officer, and he/she shall ensure that, subject to compliance with any such instructions as are mentioned above, the systems of accounting control determined by him/her are observed and that the accounts of the Council are kept up to date.
- (g) Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council, the Chief Executive, Statutory Officer or Director concerned shall notify the Chief Finance Officer who shall satisfy himself/herself as to the arrangements for investigation, report and subsequent action.
- (h) The internal audit function shall be conducted in accordance with the latest professional guidance and its activity will be based on an annual plan and controlled in order to achieve the agreed objectives. Documents shall be produced and records shall be maintained to demonstrate adequate control and professionalism in the delivery of the audit service. The findings and recommendations from each audit review shall be included in a formal report which will be presented to the Chief Finance Officer, the Chief Executive and the Monitoring Officer.
- (i) Internal audit will carry out Value for Money exercises, and provide quality assurance advice and support, in accordance with a programme agreed in advance by the Chief Finance Officer and Directors.

## 14. Income

- (a) The Chief Finance Officer shall make and maintain arrangements for:
  - (i) the financial organisation, accounting and book keeping necessary to ensure the proper recording of all sums due to the Council; and
  - (ii) the collection, custody, control, disposal and prompt and proper accounting for all cash in all service areas of the Council and has the right to inspect any documents or other evidence in this connection as he/she may decide.
- (b) All monies received on behalf of the Council in any service area shall be deposited promptly in a manner approved by ~~with~~ the Chief Finance Officer.
- (c) Large amounts of cash shall not be held overnight unless this is unavoidable. Where money is held overnight, the amount must not exceed limits laid down by the Council's insurers and secure arrangements must exist for safe keeping (approved by the Chief Finance Officer). Keys to safes must be kept by the approved key holder(s) and any loss of such keys must be reported to the Chief Finance Officer immediately.
- (d) Officers must not under any circumstances borrow temporarily from Council monies. Personal money must be kept entirely separate from Council monies and personal cheques must not be cashed out of money held on behalf of the Council.
- (e) Every transfer of official money from one member of staff to another must be evidenced in the records of the service areas concerned by the signature of the receiving officer.
- (f) The Chief Finance Officer shall maintain a Sundry Debtor System. All requests for debts to be raised shall be made on the form provided and signed by the relevant Director. Reports of outstanding debtors shall be provided monthly to the relevant Director.
- (g) All official receipt forms, account books, tickets and other financial items of a similar nature shall be in a form approved by the Chief Finance Officer and shall be ordered, controlled and issued by him/her and all recorded and acknowledged except for car parking tickets which should be ordered, controlled and issued by a Director, subject to the Chief Finance Officer being satisfied with the control arrangements. The Director of each service area shall be responsible for the safe custody and proper use thereof.
- (h) Particulars of all charges to be made for works done, services



rendered or goods supplied by the various service areas of the Council and of all other amounts due shall be promptly notified to the Chief Finance Officer.

- (i) New charges or changes in existing charges shall be approved by the Executive except that:
  - (i) the Chief Finance Officer, in conjunction with the Director concerned, may increase the existing charges annually in line with inflation or take account of changes in the rate of VAT.

#### **15. Write off of debts and losses**

- (a) No money due to, or inventory items of, the Council shall be written off without the authority of the Executive except that they may, after consulting any Chief Executive or the Director concerned:
  - (i) authorise the writing off of any loss of money or stores or inventory item not exceeding £10,000;
  - (ii) approve the abandonment or remission of any claim for money due to the Council when the sum involved does not exceed £10,000;
  - (iii) write off irrecoverable charges on bankruptcy or liquidation.

#### **16. Orders**

- (a) Except where a formal contract is made, all orders for work, goods and services shall be issued only by email or printed automatically using the computerised financial management system (i.e. official orders) approved by the Chief Finance Officer provided that the Chief Finance Officer may waive this requirement exceptionally in relation to particular orders such as supplies of public utility services, periodic payments, rent or rates, or otherwise.
- (b) Before an order is issued it shall be established that there is sufficient provision in approved estimates and/or other approvals have been obtained. The provisions of the Contract Procedure Rules shall be followed for obtaining tenders and quotations. The tendered or quoted price of the work, goods or services shall be stated on the order.
- (c) Oral orders shall be confirmed by official order prepared the same day. Any invoices received for which an official order cannot be traced shall be forwarded immediately to the Chief Finance Officer together with an explanatory memorandum. No Director shall use order forms other than those electronic orders provided by the financial management system.
- (d) All orders shall, so far as possible, be issued in sufficient detail to



identify completely and accurately the work, goods or service required, and shall specify where applicable the quotation, contract or other relevant agreement.

- (e) Orders shall be authorised by the appropriate Statutory Officer or Director or other officer authorised by him/her after consultation with the Chief Finance Officer to approve on his/her behalf, provided that officers authorised to approve orders shall approve in their own name. The names of officers authorised to approve/sign such orders shall be sent, annually or on request, to the Chief Finance Officer by each Director together with specimen signatories and shall be amended on the occasion of any change.
- (f) All orders shall be placed in accordance with the requirements of the Contract Procedure Rules in respect of the invitation of tenders and quotations.
- (g) An officer ordering materials shall consider the use of any central purchasing arrangements and to the possibilities of the standardisation of supplies and materials.
- (h) Any previously owned vehicles being purchased by the Council must be subject to a satisfactory data check on the vehicle's history by the ~~Chief Finance Officer~~ relevant Director before the Council is committed to the purchase of the vehicle.

## 17. Payment of Expenditure

- (a) All payments by the Council, except payments authorised under imprest accounts, and payments of salaries and wages shall be made by the Chief Finance Officer who shall satisfy himself/herself from time to time that there are proper arrangements in place to ensure that any amount is properly due and only such amounts are paid by the Council.
- (b) Each Director shall be responsible for arranging to have checked and certified all invoices, claims and accounts and input where appropriate arising to be dealt with in his/her service area as to their correctness in every respect. All such invoices, claims and accounts so checked and certified and complete with details of allocation and coding shall be passed without delay to the Chief Finance Officer so that they may be processed for payment. The names of officers authorised to certify monies for payment shall be sent, annually or on request, to the Chief Finance Officer by each Director together with specimen signatures, and shall be amended on the occasion of any change.
- (c) Directors shall ensure that there is a division of duties between processing of orders, receipt of goods or services and certifying of invoices.

- (d) Certification shall mean:
  - (i) an official order has been issued in compliance with Rule 17 or falls within the exceptions authorised by that Rule;
  - (ii) the work, goods or services to which the account relates have been received, carried out, examined and approved;
  - (iii) the prices, arithmetical accuracy, trade discounts, other allowances, credits and tax are correct and in accordance with quotations, contracts and valuations;
  - (iv) any VAT element of the payment has been correctly identified;
  - (v) the relevant expenditure has been properly incurred, is within the relevant estimate provision and is coded to the correct heads of expenditure;
  - (vi) the account has not been previously passed for payment and is a proper liability of the Council.
- (e) Each Director shall submit urgently and in sufficient time for the discount to be obtained all certified and checked invoices, claims and accounts subject to discount for prompt payment.
- (f) Each Director shall, to the extent requested by the Chief Finance Officer and by the date specified, notify him/her of outstanding expenditure relating to the previous financial year.
- (g) Any voucher or other document relating to the financial transaction of the Council shall be retained for a minimum of 6 years.
- (h) When an invoice is found to be incorrect it must not be amended by an officer, but a revised account must always be requested from the creditor. Any alteration will result in the account being invalid for the purposes of VAT where applicable.
- (i) Payments will not be made on photocopies or fax copies of invoices.
- (j) Payment will be made direct to the creditor or his/her bank.
- (k) The payment of the sums due from the Council shall be made by the Chief Finance Officer after entry on a Payments Listing.
- (l) Payments Listing shall be as follows:
  - (i) a weekly Payments Listing which shall be for routine payments;
  - (ii) an Urgent Payments Listing for payments not covered by sub-section 16 (a) above on a daily basis as required.

- (m) Payments shall be made within 30 calendar days of receipt of invoice unless agreed otherwise by the Chief Finance Officer.

**18. Wages and Salaries**

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

**19. Stores**

- (a) Each Director shall be responsible for the proper custody of stores held by him/her.
- (b) The accounts to be kept in connection with the receipt and issue of stores shall be in such form as shall be agreed with the Chief Finance Officer and shall be subject to his/her examination and check at such times as he/she thinks fit.
- (c) The Chief Finance Officer in conjunction with the Director concerned

shall make such arrangements for stock-taking as the Chief Finance Officer may deem necessary.

**20. Security**

- (a) Each Director shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc., under his/her control.
- (b) Maximum limits for cash holdings in accordance with insurance shall be agreed with the Chief Finance Officer and shall not be exceeded without his/her express permission.
- (c) Keys to safes and cash receptacles are to be carried on the person of those responsible at all times. The loss of any keys must be reported to the Chief Finance Officer forthwith.
- (d) Each Director shall be responsible for maintaining appropriate security measures to ensure against unauthorised access to, or alteration, disclosure or destruction of, personal data and against accidental loss or destruction of personal data in accordance with data protection legislation in force at any time.
- (e) The Chief Finance Officer shall be responsible for maintaining proper security and privacy of information held in the computer installation or for its use.

**21. Travel and Subsistence Allowances etc.**

- (a) Travel claim forms should be completed for each calendar month and submitted to the appropriate Director.
- (b) Claims for expenses (including rail fares) and subsistence must be accompanied by receipts showing VAT where applicable, and submitted to the appropriate Director.
- (c) Claims for mileage allowance will be paid with salary and not reimbursed through petty cash.
- (d) Claims must be authorised by the Director or appropriate delegated authorised signatory. Directors shall be responsible for ensuring that payment of travel and subsistence expenses are checked as valid and accurate prior to certification. Certification by or on behalf of the Director shall be taken to mean that the certifying officer is satisfied that the journeys made were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council.
- (e) All officers who use their private cars for official journeys shall indemnify the Council against claims from third parties and shall

produce their driving licence, insurance policies and/or renewal receipts as required by the Chief Finance Officer

- (f) Payments to councillors for travel or other allowances, in accordance with the appropriate statutory provisions, will be made by the Chief Finance Officer upon receipt of the prescribed form duly completed. Councillors are encouraged to submit claims on a monthly basis for expenditure to be accounted for within the appropriate month.

## 22. Irregularities

- (a) Where any officer has cause to suspect irregularity he/she shall inform his/her Director who will inform both the Chief Executive and the Chief Finance Officer and provide facilities for investigation to the Council's Auditors, as stated in the Whistle-Blowing Policy adopted by the Council.
- (b) Should it be considered that irregularity has occurred or is occurring, the Head of Paid Service, Chief Finance Officer or Monitoring Officer shall consider whether it is appropriate to inform the Leader and prepare a report for the Executive.

## 23. Grant applications and claims

- (a) All applications and claims for external grants up to a value of £50,000 made on behalf of the Council (whether capital or revenue) shall be approved by the relevant Director and notified to the Chief Finance Officer who, on confirmation of such funding, shall make the necessary amendments to the approved estimates.
- (b) ~~Proposals for new initiatives~~ Applications and claims with a value exceeding £50,000, which are to be funded by external grants shall be ~~subject to business case approval~~ approved by the Chief Finance Officer except where such initiatives will require additional funding (either capital or revenue) beyond that contained within the approved estimates.
- (c) Approval of the Executive with a report to the Council shall be required where grant funded initiatives will require additional funding (either capital or revenue) beyond that contained within the approved estimates.

## **CONTRACT PROCEDURE RULES – Appendix C**

### **1. Introduction**

1.1 These Contract Procedure Rules (“**CPRs**”) set out the key responsibilities and actions that Council staff must follow when undertaking procurements.

1.2 These CPRs constitute standing orders for the purpose of s135 of the Local Government Act 1972.

### **2. Compliance**

2.1 These rules apply to all contracts for Works, Supplies, Services or Social and Other Specific Services but do not apply to:-

- (a) Contracts of employment which make an individual a direct employee of the Council;
- (b) property Contracts regarding the acquisition, disposal, lease or transfer of land (which are covered by the Finance Procedure Rules);
- (c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options Contracts) (which are covered by the Financial Procedure Rules);
- (d) Chief Finance Officer dealing in the money market or obtaining finance for the Council; or
- (e) Contracts entered into in settling litigation or alternative dispute resolution.

2.2 The Financial Procedure Rules under Part 4 of this Constitution and the Executive Procedure Rules shall be applied in conjunction with these Rules.

2.3 Where the Council has awarded a Contract to any person to supervise or otherwise manage a Contract on its behalf such a person shall be required to comply with these Rules as if he were an Officer of the Council.

2.4 The term ‘procurement’ in these CPRs includes any arrangement whereby a new, replacement, amended or extended Contract for the supply of goods, works or services is to be put in place. This includes circumstances where more than one provider is invited to tender and also where goods, works or services are procured through a negotiation with a single provider. This includes the award of concessions. Grant funding arrangements by the Council should be considered carefully to decide whether they are in fact a procurement

for the purposes of these CPRs<sup>1</sup>. A genuine grant funding arrangement is not a procurement. However, officers should consider whether the purpose that the grant is being provided for could be achieved through a procurement.

- 2.5** The following are not procurements for the purposes of these CPRs:
- (a) use of an internet service provider (except where the ISP is invited to submit a tender along with other providers);
  - (b) provided that the Public Contracts Regulations do not apply, a joint or shared services arrangement with another public body;
  - (c) an arrangement with a statutory body (e.g. the police) to provide a service that only the statutory body can legally provide; and
  - (d) a Contract or other arrangement with a company that is controlled by the Council (whether wholly or jointly with another public body).
- 2.6** The decision of the Chief Executive will be final in any matter concerning the interpretation of these CPRs.

**2.7** Failure to comply with the CPRs may result in disciplinary action.

### **3. Pre Procurement Activity**

**3.1** For all procurement activity above £50,000 consideration must be given to assess the need for a market engagement exercise (Soft Market Testing) where the scope of the procurement or solution required is not sufficiently defined for clearly specifying in the tender documents.

**3.2** The engagement exercise may be used by the Council to gather information about what the market is capable of offering in order to refine the Councils requirements to ensure adequate competition. Prior to undertaking any market engagement, advice must be sought from the Head of CC&P to determine if appropriate and the method of engagement.

**3.3** Where market engagement is undertaken, the Authorised officer must ensure appropriate measures are taken to ensure competition is not distorted by:

**3.4** i) Ensuring any organisations involved in the engagement exercise are made aware that the engagement does not form part of a tender process.

---

<sup>1</sup> Guidance on this matter is available on the National Audit Office website  
<http://www.nao.org.uk/successful-commissioning/successful-commissioning-home/sourcing-providers/>



- ii) Ensuring the exercise is conducted in an open, transparent and structured manner.
- iii) As many suppliers as possible are given the opportunity to participate
- iv) Any information exchanged that is propriety to the supplying organisation is not used within the tender documents
- v) A record of the question and responses is kept on file by the Authorised Officer

**3.5** Where the market engagement is undertaken through the use of an advertisement on YORtender or through the use of a prior information notice (PIN) within OJEU, the details of this advertisement also needs to be recorded on Contracts Finder.

#### **34. Compliance with Legislation and Standards**

**3.14.1** Every procurement undertaken by or on behalf of the Council and every Contract entered into by the Council will comply with:

- (a) EU Law
- (b) Acts of Parliament
- (c) Statutory Instruments, but without limitation, the Public Contracts Regulations 2015
- (d) These Contract Procedure Rules, the Executive Procedure Rules and the Council's Financial Procedure Rules.

#### **5.4. Responsibilities of ~~Directors~~Officers**

##### **4.15.1 Directors & Heads of Service**

**5.24.2** For the purposes of these Rules the term Directors includes the Chief Finance Officer and the Solicitor to the Council.

**5.34.3** Directors & Heads of Service shall ensure that the Council has the legal power to enter into any Contract and that in respect of all Contracts, regardless of whether they involve the procurement or provision by the Council of Works, Supplies, Services or Social and Other Specific Services, Directors & Heads of Service shall ensure that no Contract shall be entered into which is ultra vires.

**5.44.4** Directors & Heads of Service shall ensure that the Council:



- (i) achieve Best Value for public money spent;
- (ii) show no undue favour to any Contractor, nor discriminate against Contractors from other European Union (EU) states;
- (iii) conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);
- (iv) ensure that adequate Contract files are kept for all Contracts upon which they are engaged;
- (v) ensure that before entering into any Contract:
  - (i) there is adequate approved budgetary provision; and
  - (ii) there is the appropriate authority.
- (vi) Ensure the Corporate Contract Register held by the Commissioning Contracts & Procurement Service (CC&PS) is updated ~~Keep a register of all Contracts~~ where the Contract Value is above ~~below~~ £5,000;
- (vii) Ensure that all Contracts where the Contract Value exceeds £50,000 are passed to the Solicitor for the Council for sealing and safekeeping; and
- (viii) Ensure all authorised contract procedure rules waivers are submitted electronically to the (CC&PS) ~~keep a record of all exemptions recorded~~ under rule 32~~4~~.3.

5.5  
4.5

#### **Officer Responsibilities**

5.64.6

~~The~~ Officers responsible for a purchase, disposal or submission of tenders shall be referred to as authorised officers for the purposes of these CPR's. Authorised Officers must comply with these Contract Procedure Rules, Financial Regulations, Code of Conduct and with all United Kingdom and European Community binding legal requirements. These Rules lay down minimum requirements. A more thorough procedure may be appropriate for a particular Contract.

5.74.7

The ~~lead~~ Authorised Officer is responsible for ensuring that:

- (i) the requisite authority under the Constitution is obtained to enter into a Contract;
- (ii) a specification including any quality and or performance standards that will form the basis of the Contract is prepared;
- (iii) an estimate of the whole life cost of a proposed Contract,

including maintenance and ongoing costs is prepared;

- (iv) that a risk register is prepared in respect of Contracts with an estimated Total Value greater than £50,000;
- (v) that any proposed Contractor has the technical capability to deliver the project;
- (vi) any proposed Contractor has the financial and resource capacity (taking into account Contract Value and risk) to perform the Contract;
- (vii) these rules, the Financial Procedure Rules and any Codes of Practice are complied with; and
- (viii) any agents, consultants, and Contractual partners acting on the Council's behalf follow a process which provides for equivalent competition to these rules.

**5.84.8**

The ~~lead~~-Authorised Officer shall maintain a Contract file in respect of each procurement exercise for a Contract with a Total Value exceeding £~~15~~,000 which will include:

- (a) the name of Officers undertaking the procurement process;
- (b) a copy of the specification;
- (c) in relation to Contracts with a Total Value exceeding £50,000, the risk register;
- (d) a written record of any exemption from Contract Procedure Rules and the reason for it;

(e) copies of all tenders or quotations;

~~(e)~~(f) Copies of bidder questions and answers plus copies of evaluation questions and answers

~~(f)~~(g) a copy of the evaluation process and reasons for the decisions as to acceptance or rejection of every tender or quotation;

~~(g)~~(h) a copy of any debrief request and the response thereto;

~~(h)~~(i) the award letter;

~~(i)~~(j) the signed order form or copy of the final signed Contract; and

~~(j)~~(k) a copy of any extension to the Contract in accordance with CPR.

**6.5.**

**Joint Procurement**

**6.15.1** Any joint procurement for the benefit of the Council together with one or more public bodies will be formally approved by the relevant Director as a Delegated Decision before the procurement commences.

**6.25.2** Where the Council conducts the procurement on behalf of itself and one or more other public bodies these CPRs will apply and the **Lead Authorised** Officer must ensure the other public bodies that are to be included in that arrangement are listed in the OJEU advertisement and Contract documents individually ~~or~~ as an identified class. The estimate of Contract usage must include the potential usage of that joint arrangement by those public bodies listed.

**6.35.3** Where the Council is going to take part in a procurement that is conducted by another public body the procurement must be carried out in accordance with the procuring body's procurement rules and the Public Contracts Regulations 2015.

## **7.6. Estimating the Contract Value**

**7.16.1** ~~The method for estimating the contract value, shall be based on the total amount (excluding VAT) the Council expects to pay or receive as income for the whole contract period or term. (for example Estimated annual value x Contract duration plus any allowance for annual fluctuations in estimated spend profile). Contract Total Values should be calculated by working out the annual price and multiplying it by the Contract length (including any possible Contract extensions) and, in any event, in accordance with the Public Contract Regulations with particular regard to the rules on aggregation. For consistency, these rules should be followed even when the Public Contract Regulations are not applicable.~~

### **7.2**

~~In the case of call off contracts from a framework the total value calculation shall not exceed four years when calculating the contract value.~~

### **67.32**

~~Lead Authorised~~ Officers will ensure that Total Values are not split in an attempt to avoid the applicability of these CPRs, the Public Contract Regulations or the Executive and Decision Making Procedure Rules (Part 4 of the Constitution).

## **78. Form of Contract**

**8.17.1** Every Contract exceeding £1000 in Value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).

**8.27.2** Every Contract exceeding £1,000 shall be evidenced by the use of a Contract file (as set out in CPR **4.75.7**).

**8.37.3** Every Contract exceeding £25,000 in Value shall be documented by a written form of agreement which must clearly specify the obligations of the Council and the Contractor and shall include:

- (a) the work to be done or the Supplies, Services or Social and Other Specific Services to be provided;
- (b) the standards which will apply to what is provided;
- (c) the price or other consideration payable;
- (d) the time in which the Contract is to be carried out; and
- (e) the remedies which will apply to any breach of Contract.

**9.8.** **Key Decision and Forward Plan**

**9.18.1** Expenditure of £150,000 or more is a Key Decision and can only be taken in accordance with the Executive Procedure Rules.

**9.28.2** The proposed award and tenders of £150,000 or more must be placed on the Forward Plan whether the award is made.

**9.38.3** 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.

**9.48.4** Publication of the Forward Plan

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

Subject to Rule 5.5 of the Executive Procedure Rules (general

exception) and Rule 5.6 of the Executive Procedure Rules (special urgency), a key decision may not be taken unless:

- (a) a notice (I 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;
- (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).

### **10.9. Less than £5,000 – Low Value Procurement**

**10.19.4** Where the Estimated Value of a Contract is £5,000 or less an ITQ is not mandatory, but at least ~~one-two~~ quotations are required provided the Lead-Authorised Officer believes that it represents Best Value for the Council to make a direct appointment without the need for further competition. They may do so providing that a written record of the decision, along with reasons, is kept.

### **11.40. Between £5,000 and £50,000 – Intermediate Value Procurement**

**11.140.1** Competition is required for procurements Valued at over £5,000 but at or below £50,000.

**11.240.2** At least **three** written quotations must be invited. These tenders may be invited by publishing either an open or restricted tendering opportunity (restricted meaning that only selected suppliers are invited to tender) on the E-Sourcing system.

**11.340.3** The estimated Value of the Contract shall be recorded in writing prior to quotations being sought. Quotations above £25,000 **must** be invited using the E-Sourcing system.

**11.440.4** If a Director or Head of Service considers it to be appropriate that any ITQ shall be available to all potential Participants then a notice advertising the opportunity shall be published through the E-Sourcing System and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the Value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITQ documents may be obtained and the closing day for receipt of quotations by the Council.

**11.540.5** All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors or Heads of Service may permit potential Contractors who have been selected to submit quotations

under Rule 10.2 to also submit variant quotations (i.e. quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.

**11.610.6** A written quotation may only be considered if it has been submitted in compliance with clause 26 of these CPR's:

~~(a) it has been received electronically through the E-Sourcing System; or~~

~~(b) it has been received in a sealed envelope marked 'Quotation' and indicating the subject matter of the quotation; and~~

~~(c) it has been opened after the expiry of the deadline for submissions and at the same time as other quotations for the same subject matter in the presence of at least two Officers.~~

**11.710.7** Before quotations of a Value in excess of £25,000 are requested it must be recorded in writing whether the lowest price or the most economically advantageous quotation should be accepted. Where both price and quality are to be factors (i.e. where the most economically advantageous quotation applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers.

**11.810.8** Unless the Solicitor to the Council considers a formal Contract document is necessary, orders for procuring goods and/or services the Value of which is no greater than £50,000 shall be on the official form of order (official order) as approved by the Chief Finance Officer.

**11.910.9** All official orders must be issued in sufficient detail and refer to the reference where available:

(a) to identify the works, goods and/or services required;

(b) the price to be paid; and

(c) the time within which the Contract is to be performed and show the appropriate expenditure code.

**11.1010.10** Competitive prices may be sought and received electronically provided that hard copies of all electronically processed information and correspondence relating to the price are made and retained on the Contract files.

**11.1110.11** Officers authorised to sign official orders shall not certify the receipt of any goods or services (unless cross checked by another Officer) for which they have signed the order.

~~11.12~~~~10.12~~ Any orders which are given orally must be confirmed by an official order on the same day, or as soon as possible thereafter.

~~10.13~~ ~~Where goods and/or services are obtained under agreement from a Contractor throughout a year it shall be sufficient to invite quotations once in that year, however, consideration must be given to establishing a Framework or Measured Term Contract.~~

## 12 **Over £50k – High Value Procurement**

~~11.1~~  
~~11.2~~  
12.1 Where no appropriate internal provider, exclusive supplier, Council approved framework agreement or approved framework agreement exists, competition is required for procurements Valued over £50k.

~~11.1~~  
12.2 Where there are sufficient numbers of providers at least **four** written tenders will be invited. Tenders must be invited by publishing an open opportunity on the E-Sourcing System.

~~11.2~~  
12.3 CPRs ~~12.1~~ and ~~12.2~~ are subject to CPR ~~13.2~~. Where the estimated Contract Value reaches the relevant EU threshold set out in the Public Contracts Regulations, CPR ~~11.0~~ will also apply.

~~11.3~~  
12.4 Any decision to waive this rule by a Director will be in accordance with CPR ~~32.1~~. Rule ~~12.3~~ cannot be waived.

12.5 The decision to undertake a procurement of this Value must be taken in accordance with the Council's Constitution particularly Part 3 on specific delegations. At this level of spend it should be considered whether the decision is a Key Decision (as set out in CPR ~~9.8~~).

~~11.4~~  
~~11.5~~  
12.6~~11.5~~ If an open advert is placed on the E-Sourcing system, the option to publish on contracts finder must be selected.

## 13. **Contracts that are subject to the Public Contract Regulations**

13.1 Where the estimated Value of a Contract exceeds the current EU threshold, the Contract will be tendered in accordance with the Public Contracts Regulations and these CPRs.

~~11.6~~  
13.2 Where a Director and the Solicitor to the Council agree that the negotiated procedure without publication of a Contract notice applies there is no requirement to obtain a waiver of CPRs ~~12.1~~ and ~~12.2~~.

~~12.1~~  
13.3 All OJEU Contract notices must also be published on Contracts Finder.

13.4 The current thresholds (as at January ~~2016~~2018) are:

~~12.2~~ Goods OR Services - £18164,302476.00  
Works - £4,104551,394413.00



Contracts for Social and other Specified Services -  
£~~615,278,589,148.00~~ (light touch regime)

~~13.512.3~~ The thresholds are updated every two years.

~~13.612.4~~ Officers should note that there are specific rules in the Public Contracts Regulations covering Contracts for Social and other specific services. These include certain health, social, educational and other services. Above ~~the~~ threshold set out in CPR ~~132.4~~ these services must be procured following the placement of an OJEU Contract notice or prior information notice and using a selection process that follows the principles of transparency and equal treatment and in particular covers the following:

~~13.712.5~~ ~~132.5.1~~ – conditions for participation must be clear;  
~~132.5.2~~ – time limits must be clear; and  
~~132.5.3~~ – the award procedure must be clear.

Advice should always be sought from the Solicitor to the Council to ascertain whether the service you are procuring needs to be advertised in accordance with the Public Contracts Regulations and how a procurement for these services should be run.

~~13.8~~ Officers conducting above threshold procurements of goods, works and services should note that they must consider dividing Contracts into lots and justify any decision not to do so in either the procurement documents or the evaluation report and that all procurement documents must be published at the time that the OJEU Contract notice is published.

~~12.6~~

#### ~~14.~~ Pre-qualification Supplier Self Certification

~~14.1~~ In all procurements with a Value at or above EU thresholds as set out in para 13.4 of £172,514 or more the Council will only enter into a  
~~12.7~~ Contract with a Contractor if it is satisfied as to the Contractor's eligibility, financial standing and technical capacity and CPRs ~~132.2~~ and ~~143.3~~ need to be followed when making this assessment.

~~14.2~~ A process of contractor self certification is used ~~Pre-Qualification Questionnaires are used~~ to assess a tenderer's ability to perform the Contract in question (selection criteria) and must not be used to assess how a Contractor will perform the Contract (award criteria).

~~14.313.~~ A Template self certification documents are available from CC&P's  
~~13.1~~ Pre-Qualification Questionnaire is available for use to determine the criteria under CPR ~~124.1~~.

~~14.4~~ In all procurement with a Value ~~of less than~~ EU thresholds £172,514  
~~Authorised Lead~~ Officers should consult with CC&P's to need to decide if a process of contractor self certification is whether it is necessary to



assess a suppliers's eligibility, financial standing and technical capacity. If the ~~lead-it is decided this is not necessary then, Officer decides that this assessment is necessary, Pre-Qualification Questionnaire are not allowed for 'below threshold' Contracts, instead~~ suitability assessment questions must be included as part of this tender assessment.

**13.2**

## **15. Invitation to Tender**

**15.1**

If the estimated Value of the Contract is £50,000 or more, electronic tenders shall be invited in accordance with the provisions of this Rule.

**15.2**

The ~~lead~~ Authorised Officer will ensure that tenders are invited and Contracts are entered into on the Council's contract terms and conditions. They will be included with each purchase order or invitation to tender. Where this is not possible, because the Council's terms and conditions are not suitable, and other terms and conditions are proposed, those terms and conditions must be formally approved in writing by the ~~relevant Director~~ Solicitor to the Council before they can be accepted.

**15.3**

The above CPR ~~154.2~~ will not apply to:

- (a) Construction and/or engineering Contracts where bespoke conditions based on accepted standard form Contracts are used such as JCT or NEC for example; and
- (b) Approved Framework Agreements that have been created by organisations other than the Council.

**15.4**

Where tenders for works are required for building works, the Lead Authorised Officer will liaise with ~~CC&P's the North Yorkshire Procurement Partnership~~ to determine the most appropriate standard form of building Contract to use.

**15.5**

If the estimated Value of the Contract exceeds the relevant EU Threshold the additional requirements for OJEU Procurements, set out in Rule ~~132~~, shall be followed.

## **16. ITT – General Requirements**

**16.1**

Before an Officer invites a tender it shall be in writing for all Contracts whether the Contract will be awarded on the basis of price or the most Economically Advantageous Tender (MEAT), a combination of price and quality.

**16.2**

If a Contract is to be awarded on the basis of the MEAT, the criteria to be used in the assessment of the quality elements of the tenders and the weighting between price and quality shall be established and recorded in writing before tenders are invited. For all Contracts, the tender assessment criteria, sub-criteria and weightings shall be stated

on the ITT.

**16.3**

If a Contract is to be awarded on a price only basis it shall be recorded whether the award will be made on the basis of the lowest price or any other tendered price. Where a tender involves payment to the Council, the provisions of this Rule shall apply except that the word 'lowest' shall be replaced by the word 'highest'.

**16.4**

All Participants invited to submit tenders shall be provided with identical instructions and information.

**17.**

**Pre-tender submission clarification**

**17.1**

Prior to the tender submission deadline either the Council or a tenderer may seek to clarify any aspects of the issued tender documentation. Adequate time must be allowed for both the clarification question and the response. Both the clarification question and response must be in writing and recorded in a log. A minimum of 5 days must be allowed between the last clarification question or response issued by the Council and the tender submission date (although note that different timescales apply to procurements that are subject to the Public Contracts Regulations and have required the publication of a Contract notice). Except for a very limited set of circumstances both the question (anonymised) and the response should be issued to everyone who has been invited to tender. Legal Services can advise any officer who requires some assistance in relation to this rule.

**18.**

**Options for Tender**

**18.1**

Tenderers shall be invited on the basis of one **o**f the following options.

**18.2**

**Open Tenders**

**18.3**

If a Contract (including a Contract for Social or Other Specific Services or a Contract for Works) has a Value in excess of £50,000 but below EU threshold then the following procedures shall apply:

- (i) A notice advertising the opportunity shall be published through the E-Sourcing System and Contracts Finder and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the Value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITT documents may be obtained and the closing date for receipt of tenders by the Council.
- (ii) The deadline date for the return of tenders shall be at least 28 days after the publication of the first advertisement of the ITT and, where relevant, at least 14 days after the last ITT advertisement is published.

- (iii) The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are issued and shall be included in the documents provided to all Participants.
- (iv) The evaluation of the tenders shall be carried out by Officers, nominated by the Director or Head of Service, who are considered appropriate having regards for the subject matter and Value of the Contract.

## 19. Restricted Tenders

19.1 Only in the case of Social or Other Specific Service Contracts or Works Contracts in excess EU thresholds if a Director or Head of Service in consultation with the Solicitor to the Council, **considers** it appropriate that any tender ITT shall be restricted to selected participants by following the restricted procurement procedure, issuing a PQQ to all potential Participants followed by an ITT to those Participants selected at the PQQ stage then the following procedures shall apply:

- (i) A notice advertising the opportunity and inviting expressions of interest shall be published through the E-Sourcing System and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the Value, location and a subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Participants to complete a request to participate for submission and submit a PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how requests to participate PQQs are to be submitted and the closing date for their receipt by the Council.
- (ii) The deadline date for the return of request to participate PQQs shall be at least 28 days after the publication of the first advertisement of the opportunity and, where relevant, at least 14 days after the last advertisement is published.
- ~~(iii) —~~ The selection criteria which are to be applied in the evaluation of the PQQs request to participate shall be about the bidders capacity and technical ability to deliver the general requirements and not the specific contract. recorded in writing before the PQQs are invited and shall be included in the documents provided to all Participants.
- ~~(iv) —~~
- ~~(v)~~(iii) The evaluation of the PQQs request to participate shall be carried out by Officers, nominated by the Director or head of Service, who are considered appropriate having regards for the subject matter and Value of the Contract.
- ~~(vi)~~(iv) After evaluation of the PQQs requests to participate, ITTs shall

be published to at least five Participants or, if less than five potential Participants applied or are considered suitable, such Participants as have been selected by the Director or Head of Service.

~~(vii)~~(v) The deadline date for the receipt of tenders shall be at least 28 days after the date of dispatch of the ITTs.

~~(viii)~~(vi) \_\_\_\_\_ The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITTs are published and shall be included in the documents provided to all Participants.

~~(ix)~~(vii) The evaluation of tenders shall be carried out by Officers, nominated by the Director or Head of Service, who are considered appropriate having regards for the subject matter and Value of the Contract.

## **20.** Framework Agreements

**20.1** Where the Value of the proposed Framework Agreement exceeds the EU Threshold, the procedure prescribed by the PCRs shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to:

- (i) the procurement methodology;
- (ii) the placement of orders under the Framework Agreement;
- (iii) further competition between Contractors appointed to the Framework Agreement.

**20.2** The duration of a Framework Agreement shall be limited, as prescribed by the PCRs, to a maximum of four years including any extension periods.

## **21.** Approved List of Procedure

**21.1** If a Director or Head of Service considers it appropriate to maintain a list of suitable Contractors for particular types of Work and/or Supplies and/or Services and/or Social and Other Specific Services, where the estimated Value of the Work and/or Supplies and/or Services and /or Social and Other Specific Services is below the relevant EU Threshold, the list of suitable Contractors shall be established using the procedures set out below:

- (i) A notice inviting expressions of interest shall be published through the E-Sourcing System and, if considered appropriate, a local newspaper and a suitable professional trade journal or website. The form of advertising shall take into account the

Value, location and subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Participants to apply to the Council to be considered for inclusion on the approved list by the Council. The notice shall include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council.

- (ii) The deadline date for the return of expressions of interest shall be at least 28 days after the publication of the first advertisement of the expressions of interest and, where relevant, at least 14 days after the last advertisement is published.
- (iii) The selection criteria which are to be applied in the evaluation of the expressions of interest shall be recorded in writing before expressions of interest are invited and shall be included in the documents provided to all Participants.
- (iv) The evaluation of expressions of interest shall be carried out by officers, nominated by the Director or Head of Service, who are considered appropriate having regards for the subject matter and Value of the Contract. The Director or Head of Service shall then maintain a list of such approved Contractors categorised by Works/Supplies/Services/Social and Other Specific Services type and Value as may be applicable.
- (v) The Director or Head of service shall review the performance of all Contractors on the approved list at regular intervals, not exceeding 12 months from the date of appointment of the Contractor to the approved list.
- (vi) The Director or Head of Service may remove Contractors from an approved list where the Director or Head of Service and Chief Finance Officer agree that such a removal is appropriate, having regards for the conducts, performance an/or status of the Contractor in relation to those standards identified in the original expressions of interest.
- (vii) The Director or Head of Service may approve an application from a potential Contractor to be added to an existing approved list.
- (viii) ITTs or Invitations to Quote shall be invited in accordance with Rule ~~132~~ or Rule ~~124~~.
- (ix) The Director or Head of Service shall maintain records of the tenders or quotations invited from an approved list such that the names of the Contractors invited to tender, the selection process and Contracts awarded to each Contractor are available for inspection.

- (x) Approved Lists may remain in force for a maximum of five years. Before the expiration of the Approved List a replacement shall be established, if appropriate.

**22. Dynamic Purchasing Systems, Competitive Dialogue Procedure, Competitive Procedure with Negotiation and Innovation Partnership Procedure**

**22.1** Where a Director or Head of Service, in consultation with the Solicitor to the Council and Head of CC&P, agrees that it is appropriate, a Dynamic Purchasing System, the Competitive Dialogue Procedure, the Competitive Procedure with Negotiation or the Innovation Partnership Procedure may be used for the invitation of tenders in accordance with the requirements of the PCRs.

**23. Submission Receipt, Opening and Registration of Tenders**

**23.1** Invitations to Tender for procurements that have a Value above of below £25,000 are not required to be transmitted electronically using the E-Sourcing system however, the use of the E-Sourcing system is encouraged for all procurements.

**23.2** Invitations to Tender for procurements that have a Value of £25,000 or more must be transmitted electronically using the E-Sourcing system; this includes mini competitions under Approved Framework Agreements. The use of the E-Sourcing system is encouraged for all procurements.

**23.3** ~~Faxed or E~~mailed tender documents or tender submissions are not acceptable for procurements that have a Value above of £25,000.

**23.4** The design of the tender documents must be such that price documentation cannot be changed or substituted following submission of the Tender.

**23.5** Procurements through Approved Frameworks need not be advertised unless a mini-competition is required in which case they will be advertised in accordance with the provisions of the framework. Where allowed by the framework rules any mini competition must use ~~However, once complete, details of the Contract must be registered on the E-Sourcing system, by the Lead Officer.~~

**23.6** Subject to CPR 254 no tender submissions, ~~or Pre-Qualification Questionnaires~~ received after the specified date and time for their receipt can be considered by the Council unless the delay is caused by a Council error such as temporary failure of the E-Sourcing system in which case the Solicitor to the Council~~Director~~ may waive this CPR 232.6 if they believes it is reasonable to do so in all the circumstances.

All tender submissions for procurements that have a Value of over



~~£50,000 will be opened by the at least twothree officers, one of which must be a Head of service or above and must be from different service areas. Director and if required at least one other Officer nominated by the Solicitor to the Council. An immediate record will be made of the Tender submissions received including names, addresses, Value and the date and time of opening. All tender envelopes must be retained on file.~~

~~Lead Officers must ensure that appropriate arrangements are in place for the recording and opening of tenders that have a Value of £50,000 or less.~~

## 24. Tender Evaluation

24.1 Selection and award criteria must be distinguished and highlighted as part of the tender documentation. The evaluation criteria will be predetermined and approved ~~(as an administrative decision)~~ by the relevant Lead Authorised Officer in consultation with the CC&P's and disclosed to all tenderers through the Invitation to Tender documentation. The evaluation criteria should be disclosed along with weightings. In exceptional circumstances, where this is not possible, the evaluation criteria may be listed in order of importance. Published criteria may not be changed and will apply throughout all stages of a procurement. The evaluation criteria and methodology must be set in accordance with the Public Contracts Regulations (including an assessment of cost effectiveness such as lifecycle costing.)

24.2 All Contracts must be awarded on the basis of the offer which represents the pre-determined evaluation criteria.

## 25. Errors in Tender Submissions

25.1 Errors in tender submissions must be dealt with either by asking the tenderer to confirm that they will honour their tender submission despite the error or if not withdraw the tender from the procurement process. Where a tenderer has made a genuine error they may be given the opportunity to correct that error prior to tender evaluation. If correction is permitted the tenderer must submit, supplement, clarify or complete the relevant information or documentation within a strict time limit that represents the minimum time that a tenderer needs to make a correction.

25.2 If a tender submission is incomplete or has specific documents missing and correction is permitted the tenderer must submit, supplement, clarify or complete the relevant information or documentation within a strict time limit that represents the minimum time that a tenderer needs to make the correction.

25.3 If a tenderer uploads documents onto the E-Sourcing system which cannot subsequently be opened by the Council at the tender opening

ceremony, the ~~Lead Authorised~~ Officer should ask the tenderer to re-submit its documents to them via the E-Sourcing system that can be accessed by the ~~Lead Authorised~~ Officer. ~~This re-submission may be by email but a Lead Officer's email account should not be used for this purpose. All correspondence of this nature should be sent to a regularly monitored project, team or directorate mail box.~~

**25.4** Tender documents must state how errors, such as omissions and inaccuracies in tenders submitted to the Council will be dealt with. Whichever process is followed it must be transparent and fair to all tenderers.

**25.5** If a Contractor agrees to stand by an error which will cast doubt on its ability to perform the Contract, or to the standard required, or may result in legal dispute, then authority should be granted by the Solicitor to the Council~~relevant Director~~ before a tender is accepted on this basis. A copy of the report and decision must be sent to the CC&P Service~~Director~~ for monitoring purposes.

## **26. Submission of Tenders**

**26.1** All ~~tenders above £5,000 shall be submitted via the electronic tendering system. hard copy tenders shall be addressed to the Director (designated Officer).~~

**26.2** ~~Subject to paragraph 25.3 wW~~here an the electronic tendering system is unavailable or deemed not appropriate for the procurement exercise, authorisation to use alternative electronic means of tender submission is required fromwhich meets the satisfaction of the Solicitor to the Council and the Chief Finance Officer, Invitations to Tender may be transmitted by electronic means.

**26.3** Tenders may be submitted by electronic means provided that:

- (a) evidence that the transmission was successfully completed is obtained and recorded;
- (b) each tender submitted electronically is deposited in a secure mailbox approved by the designated Officer before the return date; and
- (c) electronic tenders are kept in a separate secure folder until the deadline is passed for receipt of tenders.

**26.4** No hard copy tender may be considered unless it is contained in the approved form of envelope endorsed only with the word 'Tender' and the subject to which it relates and addressed and delivered to the designated Officer. The envelope must not bear any mark or name indicating the name of the sender.



**26.5** The date and time of receipt of every hard copy tender shall be indicated on the envelope by the designated Officer and must remain in the secure custody of the Solicitor to the Council until the time and date appointed for their opening.

**26.6** Any tender received after the opening of tenders has taken place, must be promptly returned to the tenderer. The tender may be opened to ascertain the name of the tenderer but no details of the tender may be disclosed.

**26.7** No alteration of any tender shall be allowed after the closing date for the receipt of tenders except as allowed in accordance with post-tender negotiation.

## **27. Opening and Registration of Tenders**

**27.1** All tenders for a Contract shall be opened at one time in the presence of ~~at least two three~~ officers, one of which must be a Head of Service or above and not from the same service area. ~~member of the internal audit team and the appropriate Director.~~

**27.2** A member of CC&P Director (or his nominees as relevant) shall at the time tenders are opened, record: ~~in a book kept for this purpose~~ the following:

- (a) the nature of the goods or services to be provided;
- (b) the name of each tenderer by or on whose behalf a tender was submitted;
- (c) the date and time of receipt of each tender as recorded on the envelope;
- (d) the amount of each tender
- (e) the date and time of the opening of the tender; and
- (f) the names of all persons present at the opening of the tenders.

**27.3** The tenders opened shall be signed and dated by all present ~~by the Director.~~

## **28. Evaluation of Quotations or Tenders**

**28.1** Quotations or tenders may be evaluated on the basis of one of the following criteria:

- (a) the most economically advantageous quotation or tender where criteria other than price are important;

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

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

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

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

**28.2** An evaluation record must be maintained and only Officers who are named on the evaluation record may take part in the evaluation process. At least two Officers must evaluate the tenders.

**28.3** The ~~Lead~~ Authorised Officer must decide how to evaluate tenders before they are invited and set out the evaluation method in the tender documents. The same standards must be used to evaluate all the tenders.

**28.4** If it is necessary to discuss a particular tender with an individual Contractor or supplier to make sure what they are offering is understood, the discussions must not add anything to the tender.

**28.5** If there is a simple mistake or arithmetical error in a bid, contact with the relevant Contractor or supplier can be made to obtain the Contractor's or supplier's amendment in writing.

**28.6** Any additional information that may be submitted by a tenderer that was not submitted by the tender closing time and date can only be accepted after consultation with the Solicitor to the Council.

**28.7** All detailed discussions about important or complicated points must be recorded. The Officers taking part and the Contractor or supplier must sign the record and it must be retained on file.

**28.8** An evaluation report for the Director or Head of Service should be prepared advising upon the outcome of the evaluation process and details of the tenders evaluated.

**28.9** During the evaluation stages details about the number of tenders received, where those tenders came from or what is in them will remain confidential. However financial, technical or legal advice can be sought to assist with the evaluation.

**29.**            **Bonds and Parent Company Guarantees**

**29.1**            Directors and Heads of Service must consult the Solicitor to the Council and the Chief Finance Officer:

- (a)    about whether a Parent Company Guarantee is required when a Contractor is a subsidiary of a parent company, and:
  - (i)     the Total Value of the Contract exceeds £50,000; or
  - (ii)    award is based on evaluation of the parent company; or
  - (iii)   there is some concern about the stability of the Contractor.
- (b)    About whether a bond is needed:
  - (i)     where the Total Value of the Contract exceeds ~~£140,000~~£150,000 Directors and Heads of Service in consultation with the Solicitor to the Council must decide whether the circumstances justify the Council requiring the supplier to provide a bond; or
  - (ii)    ~~where it is proposed to make staged or other payments in advance of receiving the whole of the subject matter of the Contract and there is concern about the stability of the Contractor~~All bonds must be in a form approved by the Solicitor to the Council.

**30.**            **Post-Tender Negotiation**

**30.1**            **Post-tender negotiation may take place where:**

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

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

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

**31.** **Awarding Contracts**

**31.1** A Contract will only be awarded subject to the tender evaluation criteria. Where a tender is to be evaluated on price only the Contract must be awarded to the tenderer submitting the lowest price. Where a tender is to be evaluated on quality only the Contract must be awarded to the tenderer submitting the highest scoring tender.

**31.2** Where a Contract is to be awarded on the basis of a price/quality evaluation and the difference between the Value of the lowest priced tender and the highest scoring submission is more than 5%, the **Lead Authorised** Officer must report this fact to the Officer who is taking the decision to award the Contract. This should be done by including a clear statement in the contract award decision report.

**31.3** Contracts with a Value up to and including £50k which are based on the Council's standard terms and conditions, or on formally approved submitted terms and conditions, may be awarded and signed by an Officer with the requisite delegated authority to do so within the relevant service.

**31.4** The decision to award a Contract will be made in accordance with the sub-delegation schemes that are in place. This report should give details of the reasons why tenders, if any, were disqualified and the reasons for the selection of Contractor(s).

**31.5** Letters of Intent will only be used in very exceptional circumstances and following a decision. Where the terms and conditions of Contract are not fully agreed no Contractor will be allowed to commence delivery of goods, works or services until a full risk assessment has been carried out by the **Lead Authorised** Officer as to the possible implications to the Council of the Contractor being allowed to commence work before the Contract terms and conditions have been finalised. It is recommended that advice is taken from the Solicitor to the Council prior to entering into a Letter of Intent.

**31.6** A tender may be accepted by the appropriate Director **or Head of Service**, provided that:

**(a) the Director or Head of Service notified the award of the Contract as an Officer decision on the forward plan and is published 28 days prior to the date of the decision**;

**(a)(b) The decision to award the contract is within the Director or Head of Service scheme of delegation as set out in part 3.9 of the constitution**

- ~~(i) the Solicitor to the Council; and~~
- ~~(ii)(i) in the case of a tender which falls above EU Procurement Levels, the Executive.~~
- ~~(b) confirmation of receipt of notification has been returned to the Director by the Solicitor to the Council, and where required the Executive in accordance with (a) above;~~
- (c) where the Contract Value exceeds EU Procurement Levels the Contract is not awarded until the time period identified in Public Contract Regulations has elapsed (minimum 10 calendar days from midnight after decision); and
- (d) the identity of any tenderer other than the tenderer submitting the tender accepted shall not be disclosed to any other tenderer.

**31.7** The acceptance of a tender shall be notified in writing to the tenderer submitting the successful tender by the appropriate Director or Head of Service.

**31.8** Contract Conditions

**31.9** Every Contract for goods and/or services shall state:

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

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

- (a) that the Contractor will not assign the Contract without written consent of the supervising Officer/Contract administrator;
- (b) that the Contractor will pay liquidated damages (where these can be assessed and ascertained) or other damages to the Council should the terms of the Contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable;

- (c) the Contractor must provide evidence of adequate insurance to cover both Public and Employers' liability, appropriate indemnity provisions and any performance bond or parent company guarantee required;
- (d) that the Contractor shall not unlawfully discriminate within the meaning of the Race Relations Act 1976 or any comparable statutory provision relating to discrimination in employment, and shall ensure that all employees, agents and sub-Contractors do not unlawfully discriminate, and shall comply with all relevant codes of practice issued by the Commission for Racial Equality or comparable body and, so far as practicable, operate an equal opportunities policy which complies with the practical guidance and recommendations contained in such codes of practice;
- (e) that the Contractor shall adopt safe methods of work and comply with all other requirements of Health and Safety at Work legislation in order to protect the health and safety of its personnel and to the extent applicable the personnel of the Council and all other persons;
- (f) that the Contractor shall comply with the General Data Protection Regulations (GDPR) ~~Data Protection~~ legislation and indemnify the Council in respect of the use, disclosure or transfer of personal data by the Contractor, its employees, agents and Sub-Contractors;
- (g) that the Council may cancel the Contract and recover any loss if the Contractor, its employees, agents and Sub-Contractors offer any inducement or reward relating to the Contract (even if the Contractor does not know what has been done) or commit any offence under the Prevention from Corruption Acts 1889 to 1916 or section 117(2) of the Local Government Act 1972;
- (h) where under any Contract, one or more sums of money are to be received by the Council, the Contractor responsible for the payment of such sum or sums must pay interest at the rate stated in the Contract from the date when payment is due until the date when payment is received;
- (i) whenever, under the Contract any sum of money is recoverable from or payable by the Contractor, this sum may be deducted from any sum due or which at any time may become due to the Contractor under this or any other Contract with the Council;
- (j) the Contractor must not sub-Contract the works or any part of the works, without prior written consent of the appropriate Director, no sub-letting by the Contractor will relieve the Contractor of its liability to the Council for the proper

performance of the Contract and the Contractor remains responsible to the Council for the proper performance and observance by all sub-Contractors of all the Contractor's obligations; and

- (k) the principles of Best Value required and any other terms and conditions specified by the Solicitor to the Council (who has general powers to set standard and special Contract conditions).

**31.10**

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

**32.**

**Waiver of Contract Procedure Rules**

**32.1**

Waiver of Contract Procedure Rules is only permitted where:

- (a) EU Procurement Rules do not prevent the use of an exemption, and

**32.2**

- (b) one of the following applies:

- (i) the consent in writing to use one of the exemptions referred to under paragraph 32.3 has been obtained; or
- (ii) where the exemption is made by the Executive or a committee which are satisfied that special circumstances justify an exemption (and recorded in the minutes);
- (iii) in a case of urgency, the consent of any Executive Member with delegated powers has been obtained by a formal decision notice.

**32.3**

Waiver for which the consent in writing of the Solicitor to the Council after consultation with the Chief Finance Officer can be given:

- (i) purchases at public auction;
- (ii) the procurement of proprietary or patented goods or materials or services which in the opinion of the appropriate Director are obtainable only from one Contractor, and where no reasonably satisfactory alternative is available;
- (iii) the purchase of goods or materials, the execution of works or supply of services for which the Director considers that no genuine competition can be obtained;
- (iv) the purchase of a named product required to be compatible with an existing installation;



- (v) the execution of Work or supply of Services of a specialised nature which in the opinion of the appropriate Director are carried out by only one Contractor and where no reasonably satisfactory alternative is available.
- (vi) The instruction of, advice from, or service provided by Counsel;
- (vii) The purchase of a work of art or museum specimen;
- (viii) Purchases, works and services required by the appropriate Director so urgently as not to permit compliance with the requirements of competition;
- ~~(ix)~~ Procurements where the number of quotations or tenders received are below that required by these Contract Procedure Rules.

~~(ix)~~

#### **32.4**

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

#### **32.5**

The Solicitor to the Council, in consultation with the Chief Finance Officer, may only grant an exemption in relation to a Contract with a Value which exceeds £50,000 after consultation with the appropriate Executive Member.

#### **32.6**

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

#### **33.**

##### **Signature/Sealing and Form of Contract**

#### **33.1**

Every written Contract must be signed or sealed in accordance with this Rule:

#### **33.2**

Contracts not exceeding £50,000 shall be signed by the relevant Director (or an Officer authorised by him under Part 3 of the Constitution).

#### **33.3**

Contracts that exceed £50,000 shall be sealed by the Solicitor to the Council or other Officer authorised to attest to the seal on behalf of the Council.

- (a) Where the Contract Value is no greater than £50,000 the Contract shall be approved and signed in accordance with



paragraph ~~33~~2.2 unless:

- (i) The Contract is in a standard form previously approved by the Solicitor to the Council; or
- (ii) Is to be dealt with on an official order and signed by the appropriate Director.

## 34.

### **Contract Extensions and Variations**

#### 34.1

Contract extensions are only permitted if they are put in place before the Contract expiry date and where the proposed extension is in accordance with the Contract terms. Prior to seeking approval from the relevant Director to take up a Contract extension the Lead Officer must establish whether the extension will deliver Best Value. This process must be recorded in writing.

#### 34.2

Any Contract extension must be approved by and dealt with by the relevant Director or Head of Service. The decision to extend a Contract will be treated as a new decision that is not a consequence of the initial decision to procure; it may be a Key decision, depending on Value and impact of the decision.

#### 34.3

All extensions to any Council Contracts must be in writing and reported to the Solicitor to the Council and ~~Lead Officer~~Head of CC&Per in order that the E-Sourcing system can be updated.

#### 34.4

Once a Contract has expired it cannot then be extended.

#### 34.5

No extension to a Contract is permitted which would have the effect of taking the Total Value of a Contract which was not let in accordance with EU procurement regulations above EU thresholds.

#### 34.6

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

#### 33.7

Subject to paragraphs ~~37~~6.5 and ~~37~~6.6 a Director or Head of Service may, with the consent of the Solicitor to the Council, extend a Contract subject to the extension being within the scope of the original Contract specification. All such decisions shall be maintained on the Contract file and a copy sent to the Head of CC&P~~Lead Officer~~.

#### 34.8

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

#### 34.9

##### Variations

#### 34.10

Variations to Contracts will be dealt with in accordance with these Contract Procedure Rules and the Council's Financial Procedure

Rules.

**34.10**

All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed.

**34.11**

All Contract variations must be in writing and signed by both the Council and the provider except where different provisions are made within the Contract documentation. The Value of each variation must be assessed by the ~~Lead Authorised~~ Officer and a Delegated Decision taken by the relevant Director or Head of Service. The Solicitor to the Council should be consulted to the extent that the Director or Head of Service considers necessary and, in particular, if there is any possibility that CPR ~~36~~5.15 might apply.

**34.12**

Where appropriate (taking into account any change in Contract Value, Contract term, range of services provided etc.) Contract variations must be reported to the Head of CC&P~~Lead Officer~~ in order that the E-Sourcing system can be updated.

**34.13**

A new procurement is required in case of material change where one or more of the following conditions are met:

~~34~~3.13.1 – The variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of other tenderers than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;

~~34~~3.13.2 – The variation increases the Total Value of the Contract or the framework agreement substantially in favour of the provider in a manner which was not provided for in the initial Contract or framework agreement;

~~34~~3.13.3 – The modification extends the scope of the Contract or framework agreement considerably.

**34.14**

You must consult the Solicitor to the Council if you are considering varying a Contract that you have procured under CPR 12.

**35.**

**Signing and Sealing**

**35.1**

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

**36.**

**Nominated Sub-Contractors**

**36.1**

These CPRs shall apply were a sub-Contractor or supplier is to be nominated by a main Contractor.

**37.**

**Post Contract Monitoring and Evaluation**

**37.1**

During the life of the Contract the Lead Authorised Officer must monitor in respect of:

- (a) performance
- (b) compliance with specification and Contract;
- (c) cost;
- (d) any Best Value requirements; and
- (e) user satisfaction and risk management.

**37.2**

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

**38.**

**Definition and Interpretation**

**38.1**

**13.3**

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

“Authorised Officer” An Officer authorised by a Director or Head of service to act on their behalf within the scheme of delegation.

<b>“CPRs”</b>	Contract Procedure Rules
<b>“Call Off”</b>	Goods, services or works purchased from time to time under a Framework Contract or Arrangement
<b>“Committee”</b>	Any Committee or sub-Committee of the Council
<b>“Chair”</b>	A Chair of a Committee or the Vice-Chair of a Committee of the Chair is absent or unavailable
<b>“Contract”</b>	Any agreement for the supply of goods, materials or services, the execution of works or the awarding of concessions

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.9 – Contract Procedure Rules

<b>“Contract File”</b>	A record of all matters relating to a Contract
<b>“Contractor”</b>	A supplier of goods, materials, works, services or concessions
<b>“EU Contract”</b>	A Contract covered by the Public Supply, Works or Services Contracts Regulations
<b>“Executive”</b>	Includes the Leader and individual Executive Members if the Executive delegates the relevant function to them
<b>“Framework Contract”</b>	A general term for agreements with suppliers which sets out terms and conditions under which specific purchases (“call-offs”) can be made throughout the term of the agreement. Such arrangements can create an obligation to make call-offs (a framework agreement) or set out the terms and conditions for subsequent call-offs but place no obligations, in themselves, on the procurers to buy anything (a framework arrangement)
<b>“Measured Term”</b>	Measured Term Contract (MTC) is an arrangement whereby a Contractor undertakes to carry out a series of works orders, over a period of years (defined)
<b>“Goods and/or Services”</b>	Includes services and supplies as defined in Regulation 2 of the PCRs
<b>“Hard Copy Tender”</b>	A tender document provided to the Council in paper form
<b>“Invitation to Quote and/or ITQ”</b>	Invitation to quote documents in the form required by Contract Procedure Rules
<b>Invitation to Tender and/or ITT”</b>	Invitation to tender in the form required by Contract Procedure Rules

<b>“Key Decision”</b>	Any expenditure or savings of more than £150,000 are classed as a Key Decision
<b>“Nominated Suppliers”</b>	Those persons specified in a main Contract for the discharge of any part of that Contract
<b>“Preferred Bidder”</b>	The tenderer submitting the tender that scored highest under the adopted criteria for evaluating tenders
<b><del>“PQQ”</del></b>	<del>Pre-qualification Questionnaire</del>
<b>“Officer”</b>	The Officer designated by a Director or Lead Officer to deal with the Contract in question
<b>“OJEU”</b>	The Official Journal of the European Union
<b>“Parent Company Guarantee”</b>	A Contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a Contract with the Council, they can require the parent company to do so instead.
<b>“Rules”</b>	Means these Contract Procedure Rules
<b>“Tenderer”</b>	Any person who is invited to submit a tender for the supply of goods, materials, works, services or concessions to the Council
<b>“Total Value”</b>	<p>The whole of the Value or estimated Value in money or equivalent Value for a single purchase or disposal, whether or not it comprises several lots or stages</p> <p>The Total Value shall be calculated as follows:</p> <p>(a) where the Contract is for a</p>

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.9 – Contract Procedure Rules

fixed period, by taking the total price to be paid or which might be paid during the whole of the period;

- (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the Value of those transactions in the coming 12 months;
- (c) where the Contract is for an uncertain duration, by multiplying the monthly payment by 48;
- (d) for feasibility studies, the Value of the scheme or Contracts which may be awarded as a result;
- (e) for nominated suppliers and sub-Contractors, the total Value shall be the Value of that part of the main Contract to be fulfilled by the nominated supplier or sub-Contractor; and
- (f) where an in-house service provider is involved, by taking into account redundancy and similar/associated costs

**“Value”**

See Total Value

**“Year”**

A year commencing on the 1 April and finishing on the following 31 March

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



## **Timescale trackers – Public Contracts Regulations 2006 and 2015**

The contract award procedures under both the Public Contracts Regulations 2006 and the Public Contracts Regulations 2015 come with a confusing array of minimum timescales, and possible reductions to those timescales. In addition, for procurements under the 2015 Regulations, non-central government contracting authorities enjoy a certain amount of flexibility around the setting of timescales, subject to agreement with and safeguards for bidders.

Note that the periods given are the minimum timescales permitted by the legislation. Consideration should always be given to the complexity of the procurement, and a reasonable time must be given to allow suppliers to compile their responses. If your procurement is regulated by the Public Contracts Regulations 2015, you must also take into consideration the general rules around setting of time limits that are set out at **Regulation 47**.

The overriding requirement when setting timescales is to allow sufficient time for suppliers to prepare appropriate responses, taking account of the subject of the proposed contract, the contract award procedure to be used and the need, for example, for site visits. The table below sets out the minimum permitted timescales and the maximum permitted reductions.

An appropriate time period will also need to be allocated for other aspects of the procurement process, e.g. evaluation of tender responses.



Selby District Council Constitution - Part 4 - Rules of Procedure  
4.9 – Contract Procedure Rules

Minimum timescales under the Public Contracts Regulations 2006:

<u>Choice of procedure and stage</u>	<u>Standard timescales</u>	<u>Contract notice despatched to OJEU electronically<sup>1</sup></u>	<u>Tender documents made available electronically from date of OJEU notice<sup>2</sup></u>	<u>Requirement is urgent and longer time limit is impractical as a result</u>	<u>PIN published no more than 12 months and no less than 52 days from despatch of contract notice</u>
<b><u>OPEN</u></b>					
<u>Despatch of contract notice to receipt of responses</u>	<u>52 days</u>	<u>7 day reduction</u>	<u>5 day reduction</u>		<u>30 day reduction</u>
<u>Standstill</u>	<u>10 days<sup>3</sup></u>				
<b><u>RESTRICTED</u></b>					
<u>Despatch of contract notice to receipt of responses</u>	<u>37 days</u>	<u>7 day reduction</u>		<u>Reduction to 15 days (10 where contract notice transmitted by electronic means)<sup>4</sup></u>	
<u>ITT to receipt of bids</u>	<u>40 days</u>		<u>5 day reduction</u>	<u>Reduction to 10 days<sup>4</sup></u>	<u>18 day reduction</u>
<u>Standstill</u>	<u>10 days<sup>3</sup></u>				
<b><u>NEGOTIATED WITH NOTICE</u></b>					
<u>Despatch of contract notice to expression of interest</u>	<u>37 days</u>	<u>7 day reduction</u>		<u>Reduction to 15 days (10 where contract notice transmitted by electronic means)</u>	
<u>ITN to receipt of responses</u>	<u>Sufficient time for those invited to formulate their offers</u>				
<u>Standstill</u>	<u>10 days</u>				
<b><u>COMPETITIVE DIALOGUE</u></b>					
<u>Despatch of contract notice to expression of interest</u>	<u>37 days</u>	<u>7 day reduction</u>			
<u>Standstill</u>	<u>10 days<sup>3</sup></u>				

<sup>1</sup> Electronic despatch – notices must be despatched electronically in accordance with all relevant EU procedures

<sup>2</sup> Documents available electronically – the OJEU notice must specify the internet address from which the documents are made available. Guidance issued by the OGC and Office of the OJEU states that in order to qualify for this reduction, access to the electronic resource (e.g. website) must be totally unrestricted. This will *not* be the case if bidders have to register and / or log-in.

<sup>3</sup> Standstill – the final day of the standstill period must be on a working day, and the standstill period may be up to 15 days where the contract award notice is not sent by electronic means.

<sup>4</sup> Accelerated restricted – an accelerated timetable was potentially available for the restricted procedure for major projects that would be of benefit to industry in the economic climate during 2009/2010/2011. This relaxation of the application of the accelerated timetable ceased to apply from 1 January 2012.

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.9 – Contract Procedure Rules

Minimum timescales under the Public Contracts Regulations 2015:

<u>Choice of procedure and stage</u>	<u>Standard timescales</u>	<u>Contract notice despatched to OJEU electronically<sup>1</sup></u>	<u>Tender documents made available electronically from date of OJEU notice<sup>2</sup></u>	<u>Requirement is urgent and longer time limit is impractical as a result</u>	<u>PIN published no more than 12 months and no less than 52 days from despatch of contract notice</u>
<b><u>OPEN</u></b>					
<u>Despatch of contract notice to receipt of responses</u>	<u>35 days</u>		<u>5 day reduction</u>	<u>Period reduced to 15 days</u>	<u>Period reduced to 15 days</u>
<u>Standstill</u>	<u>10 days</u>				
<b><u>RESTRICTED</u></b>					
<u>Despatch of contract notice to receipt of responses</u>	<u>30 days</u>			<u>Period reduced to 15 days</u>	
<u>ITT to receipt of bids</u>	<u>30 days</u>			<u>Period reduced to 15 days</u>	
<u>Standstill</u>	<u>10 days</u>				
<b><u>COMPETITIVE WITH NEGOTIATION</u></b>					
<u>Despatch of contract notice to expression of interest</u>	<u>30 days</u>			<u>Period reduced to 15 days</u>	
<u>ITN to receipt of initial tenders</u>	<u>30 days</u>	<u>May agree time-limit with tenderers – in absence of agreement minimum period is 10 days</u>	<u>5 day reduction</u>	<u>Period reduced to 10 days</u>	<u>Period reduced to 10 days</u>
<u>Standstill</u>	<u>10 days</u>				
<b><u>COMPETITIVE DIALOGUE</u></b>					
<u>Despatch of contract notice to expression of interest</u>	<u>30 days</u>	<u>7 day reduction</u>			
<u>Standstill</u>	<u>10 days</u>				
<b><u>INNOVATION PARTNERSHIP</u></b>					
<u>Despatch of contract</u>	<u>30 days</u>				

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.9 – Contract Procedure Rules

<u>notice to expressions of interest</u>					
<u>Standstill</u>	<u>10 days</u>				

## **OFFICER EMPLOYMENT PROCEDURE RULES**

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

### **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.

### **2. 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, 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.

### **3. 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.

**4. Appointment of Head of Paid Service, and Designation of Monitoring Officer and Section 151 Officer**

- (a) Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment Committee of the Council.
- (b) Council will approve the designation of the Monitoring Officer and Chief Finance Officer (s151)

**5. Offer of appointment as Head of Paid Service.**

An offer of appointment as Head of Paid Service must not be made by the Council until:

- (a) the Employment Committee 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 Employment Committee 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 Employment Committee that no objection was received by him/her within that period from the Leader; or
  - (iii) the Employment Committee 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).

**6. Disciplinary action against Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer**

1. In the following paragraphs:
  - (a) "the 2011 Act" means the Localism Act 2011;
  - (b) "chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
  - (c) "independent person" means a person appointed under section 28(7) of the 2011 Act;
  - (d) "the Panel" means the Employment Committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (e) "relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (f) "relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.
2. A relevant officer may not be dismissed or subject to disciplinary action by the authority unless the procedure set out in the following paragraphs is complied with.

**3. Suspension.**

The Head of Paid Service, Monitoring Officer, Chief Finance Officer and other Chief Officer(s) may be suspended by the Employment Committee whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

**4. Investigation**

No disciplinary action may be taken in respect of any of the relevant

officers specified above unless an investigation has been undertaken in respect of allegations made.

The Panel may instruct the Proper Officer to appoint a suitably qualified or experienced person to conduct such investigation and report back to the Panel on his/her findings.

5. Before the taking of a vote at the relevant meeting on whether or not to approve disciplinary action short of dismissal or to recommend dismissal to Council, the Employment Committee must take into account, in particular:
  - (a) any advice, views or recommendations of the Advisory Panel on Disciplinary Action;
  - (b) the conclusion of any investigation into the allegations; and
  - (c) any representations from the relevant officer.
  
6. 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).

7. In the case of the Head of Paid Service, the Council must approve that dismissal before the notice of dismissal is given.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, Council must take into account, in particular:

- (a) any advice, views or recommendations of the Advisory Panel on the Dismissal of Statutory Officers;
- (b) the conclusion of any investigation into the proposed dismissal;
- (c) the recommendations of the Employment Committee; and
- (d) any representations from the relevant officer.

## **8. Other Officers**

- (a) 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) In the case of Statutory Officers or Directors the Head of Paid Service may consult members on such appointments, but are not required to do so.
- (c) 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.
- (d) Councillors will not be involved in the dismissal or discipline of any officer below Chief Officers, the Section 151 Officer or the Monitoring Officer.

## CODE OF CONDUCT FOR SELBY DISTRICT COUNCILLORS

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

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

In undertaking your duties as a Councillor:

1. You must not behave in a way that a reasonable person would regard as disrespectful to them.
2. You must not bully or intimidate or attempt to bully or intimidate any person.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not bring the Council, or your office as a Councillor, into disrepute.
5. You must not do anything which may cause the Council to breach any equality enactment.
6. You must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
7. You must always use the resources of the Council in accordance with the Council’s reasonable requirements and never use those resources for political purposes.
8. If, because of your membership of the Council, you are in receipt of or are offered any gift or hospitality with an estimated value of £50 or more you must disclose this to the Monitoring Officer; and you must decline to accept any such gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a member of the Council.
9. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
10. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - You have the consent of a person authorised to give it; or
  - You are required by law to do so; or

- The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
11. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking the scrutiny process.
12. The Council's Monitoring Officer will maintain a Register of Interests for Councillors and Co-opted members. Subject to paragraph 16, you must register your interests in the Council's Register of Interests. In this code of conduct "your interests" means any disclosable pecuniary interest as defined in paragraph 14 below and also those other interests set out in paragraph 15, where those interests are held in either case:
- by you; or
  - to your knowledge, by your spouse or civil partner, by a person with whom you are living as husband and wife, or by a person with whom you are living as if you were civil partners.
13. You must register information regarding your interests by giving written notice to the Monitoring Officer, who maintains the Register; and you must give such notice:
- before the end of 28 days beginning with the day of your appointment as a member of the Council; and/or
  - before the end of 28 days beginning with the date of any change in your interests.
14. The following are disclosable pecuniary interests referred to within paragraph 12:
- Your employment, office, trade, profession or vocation carried on for profit or gain;
  - Any payment or provision of any other financial benefit (other than from the Council) made or provided in respect of any expenses incurred by you in carrying out your duties as a Councillor or co-opted member or towards your election expenses including any payment or financial benefit from a Trades Union;
  - Any contract which is made between you (or a body in which you have a beneficial interest) and the Council for the provision of goods or services or the exchange of works and which has not been fully discharged;

- Any beneficial interest which you have in land which is within the Council's area;
  - Any licence you hold either alone or jointly with others to occupy land in the Council's area for a month or longer;
  - Any tenancies where you know that the Council is the landlord and that the tenant is a body in which you have a beneficial interest;
  - Any beneficial interest in securities in a body where you know that body has a place of business in the Council's area and either:
    1. the total nominal value of the securities exceeds £25,000 or one hundredth of the total share capital; or
    2. if the share capital of the body is more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital in that class.
15. The following are the other interests referred to within paragraph 12:
- Your membership of any body to which you are appointed by the Council;
  - Your membership of any public body;
  - Your membership of any charitable body; or
  - Your membership of any political party, trade union, or other body where one of the principal purposes of that body is to influence public opinion or policy.
16. Where you consider that disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violence or intimidation, you should tell the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the register to the effect that you have a registerable interest, details of which are withheld under Section 32 of the Localism Act 2011.
17. Where you attend a meeting of the Council, or of a Committee of the Council, and you are, or ought reasonably to be, aware that any of your interests are relevant to an item of business which is being considered, then unless the interest is one which has been registered under paragraph 12, you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.
18. Where you attend a meeting of the Council, or of a Committee of the Council, and you are, or ought reasonably to be, aware that a decision in relation to any

item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 19 to a greater extent than the majority of inhabitants of Selby District, then you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.

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

## **ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011**

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Selby District Council (or of a parish or town council within its area) has failed to comply with that Council’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council (or of a parish or town council within the Council’s area), or of a Committee or Sub-Committee of the Council, has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member (or a member or co-opted member of a parish or town council) against whom an allegation has been made.

### **The Code of Conduct**

Selby District Council has adopted a Code of Conduct for members, which is set out at Part 4 of this Constitution and available for inspection on the Council’s website and on request at Access Selby in Selby Town Centre.

Each parish or town council is also required to adopt a Code of Conduct. If you wish to inspect a Parish or Town Council’s Code of Conduct, you should inspect any website operated by the parish or town council or request the clerk to allow you to inspect that council’s Code of Conduct.

### **1. Making a complaint**

If you wish to make a complaint, please write or email to:

The Monitoring Officer  
Selby District Council  
Civic Centre  
Doncaster Road  
Selby YO8 9FT

Or:

[standards@selby.gov.uk](mailto:standards@selby.gov.uk)

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.

## 2. Procedure for Dealing with Complaints

In order to ensure that we have all the information which we need to be able to process a complaint, complainants are asked to complete and send us the standard complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, and is available on request from the Customer Contact Centre. Complainants who choose not to use the standard form must ensure that they provide us with all of the equivalent information; otherwise we may not be able to deal with their complaint.

The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it. He/she will keep parties informed of the progress of a complaint.

The Monitoring officer will also normally inform the subject Councillor that a complaint has been made and send them a copy of it. If a complainant has a genuine reason why their details should be withheld from the subject Councillor they should advise the Monitoring Officer of this. The Monitoring Officer may decide to withhold the details or advise the complainant that in the interests of fairness the details will not be withheld. In that case the complainant may choose not to proceed with the complaint.

The following presumptions will apply to the procedure

- There will be a working assumption that details of the allegations made against a Councillor should not be made public until the end of the process and only if there is an investigation (subject to the rules on access to information).
- There will be recognition from the outset of any complaint that the action that can be recommended at the end of any process must be proportionate to the need to ensure effective administration of the Council, the welfare of its staff or the reputation of the Council.
- There will be an overriding presumption that complaints should be settled quickly, efficiently and informally and in a way that represents value for money and takes into account the limited action that can be taken against a Councillor.

### **Assessment stage**

The Monitoring Officer will review every complaint received and apply the assessment criteria at Appendix 1. He/she will, after consultation with the Independent Person, take a decision as to whether it merits further formal action.

This decision will normally be taken within 14 days of receipt of a complaint. Where the Monitoring Officer has taken a decision, he/she will inform the complainant and the subject Councillor of his/her decision and the reasons for that decision.



Where he/she requires additional information in order to come to a decision, he/she may come back to the complainant for such information, and may request information from the member against whom the complaint is directed. Where a complaint relates to a Parish or Town Councillor, the Monitoring Officer may also inform the Parish or Town Council of the complaint and seek views before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for further formal action. Such informal resolution may involve the Councillor against whom the complaint is made accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Councillor.

Where the Councillor or the Council make a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further formal action.

If a complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

### **The Investigation Stage**

If the Monitoring Officer decides that a complaint merits further formal action he/she will appoint an Investigating Officer who will arrange for an investigation to take place.

There will be a presumption that any investigations will be completed quickly and where possible by correspondence.

Wherever possible the investigation will conclude and report within 6 weeks of the matter being referred for investigation.

### **The Hearings Stage**

On receipt of the investigation report and where the report indicates that a breach of the Code has occurred the Monitoring Officer will arrange a Hearing. The Monitoring Officer will make reasonable efforts to ensure that the date for the hearing is suitable to all parties but will not tolerate unreasonable delay.

The Hearing will be before the Standards Sub-committee of the Audit and Governance Committee. The Sub-committee will consist of 3 District Councillors who will not all be from the same political party. Where a complaint is in relation to a Town or Parish Councillor the panel will also include two co-opted Town or Parish Councillors. The co-opted Parish representatives will not be from the same parish as the subject councillor.

The Complainant will be offered the opportunity to set out their complaint and comment on the investigation report.



The Subject Councillor will have an opportunity to respond to the Complaint and the investigation report.

The Sub-committee will then decide whether a breach has occurred and announce their findings. If the Hearing finds no breach of the Code of Conduct they will close the hearing and close the complaint.

If the hearing finds a breach of the Code of Conduct the Sub-committee may, after consulting the Independent Person, seek a local resolution. Such resolution may include the Councillor accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Councillor. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Council (or the Parish or Town Council) for information, but will take no further action.

However, if no local resolution is possible or appropriate, the Monitoring Officer will refer the matter to the relevant Council and indicate the Sub-committee's views and recommendation on the appropriate sanction.

### **Recommended Action**

The Sub-committee may recommend any sanction which is in accordance with the law and is proportionate to the findings. Examples of such sanctions include:

- 2.1 That Council pass a motion of censure against the Councillor concerned.
- 2.2 Publishing the findings in respect of the member's conduct;
- 2.3 Recommending to the Councillor's Group Leader (or in the case of ungrouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 2.4 Recommending to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 2.5 Arranging training for the Councillor;
- 2.6 Removing (or recommend to the Parish or Town Council that the member be removed) from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish or Town Council);
- 2.7 Withdrawing (or recommend to the Parish or Town Council that it withdraws) facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 2.8 Excluding (or recommend that the Parish or Town Council exclude) the Councillor from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings.

The Council has no power to suspend or disqualify the Councillor or to withdraw Councillors basic or special responsibility allowances.

**Revision of these arrangements**

These arrangements will be kept under review and may be amended by resolution of the Audit and Governance Committee.

**Appeals**

There is no right of appeal for complainants or for the Councillor against a decision of the Monitoring Officer or Sub-committee.

## **Jurisdiction and Assessment Criteria**

### **Jurisdiction**

Before assessment of a complaint begins, the Monitoring Officer, in consultation with the Independent Person, should be satisfied that the complaint meets the following tests:

1. it is a complaint against one or more named Members/voting co-opted Members (“Members”) of the authority or of a Parish Council within the District;
2. the named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
3. the complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

### **Assessment Criteria**

All complaints falling within the jurisdiction of the standards regime will be assessed by the Monitoring Officer, in consultation with the Independent Person, in accordance with the criteria below.

More than one criteria may be applicable to a complaint.

#### 1. Capacity

#### **Was the Councillor acting in in the capacity of councillor at the time of the alleged conduct?**

If the answer is **no**, the Code did not apply to the Councillor at the time of the alleged conduct and therefore there can be no breach of the Code.

#### 2. Triviality

#### **Is the complaint too trivial to warrant further action?**

If the answer is **yes**: the Monitoring Officer may decide the matter does not warrant further investigation

#### 3. Sufficient Information

**Has the complainant submitted enough information to satisfy the Monitoring Officer assessing the complaint that the complaint should be referred for investigation or other action?**

If the answer is **no**: the Monitoring Officer may decide the matter does not warrant further investigation

#### 4. Prior Investigation/Action

**Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**

If the answer is **yes**: the Monitoring Officer may decide the matter does not warrant further investigation

#### 5. Passage of Time

**Is the complaint about something that happened so long ago that there would be little benefit in taking action now?**

If the answer is **yes**: the Monitoring Officer may decide the matter does not warrant further investigation

#### 6. Underlying Motivation

**Does the complaint appear to be simply malicious, vexatious, politically motivated or tit-for-tat?**

If the answer is **yes**: the Monitoring Officer may decide the matter does not warrant further investigation

#### 8. Anonymous Complaints

**Is the complaint under consideration anonymous?**

If the answer is **yes**, the Monitoring Officer will only refer such a complaint for investigation or some other action if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and/or if there is a significant public interest in doing so.

#### 9. Requests for Confidentiality

**Has the complainant asked for his/her identity to be withheld?**

If the answer is **yes**, the Monitoring Officer will need to consider the request by the complainant for confidentiality alongside the substance of the complaint itself. As a matter of fairness and natural justice, Members will usually be told who has complained about them. Requests for confidentiality should only be granted in exceptional circumstances and at the discretion of the Monitoring Officer, in consultation with the Independent Person.

The following considerations may assist the Monitoring Officer's deliberations in this respect:

- a) Whether the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;

- b) Whether the complainant is an officer who works closely with the subject Councillor and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (NB: this should be covered by the Council's Whistle-Blowing Policy);
- c) Whether the complainant suffers from a serious health condition and there are medical risks associated with his/her identity being disclosed. In such circumstances, the Monitoring Officer may wish to request medical evidence of the complainant's condition. In such cases, the Monitoring Officer may give the complainant the option of requesting a withdrawal of his/her complaint;
- d) Whether the disclosure of the complainant's identity is necessary for the investigation of the complaint; for example, this may be relevant in a bullying allegation. In such cases, the Monitoring Officer may give the complainant the option of requesting a withdrawal of his/her complaint;
- e) Whether it is possible to investigate the complaint without making the complainant's identity known;
- f) Whether the public interest in proceeding with an investigation outweighs the complainant's wish to have their identity withheld from the subject Member.

Where the Monitoring Officer decides to refuse a request by a complainant for confidentiality, s/he may, in the particular circumstances, decide to offer the complainant the option to withdraw the complaint, rather than proceed with their identity being disclosed.

#### 10. Withdrawal of Complaints

**Has the complainant indicated that s/he wishes to withdraw his/her complaint?**

If the answer is **yes**, the Monitoring Officer will need to decide whether to grant the request. The following considerations may assist the deliberations in this respect:

- a) Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- b) Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- c) Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured to withdraw the complaint?

#### **Possible decisions**

The Monitoring Officer assessing a complaint may decide to refer the complaint for investigation or seek local resolution (e.g. training, conciliation); or may decide that no action should be taken in respect of the complaint.

## **PROTOCOL ON COUNCILLOR/OFFICER RELATIONS**

### **1. Introduction**

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

### **2. Respect and courtesy**

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

### **3. Undue pressure**

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

#### **4. Familiarity**

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

#### **5. Redress**

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

#### **6. Provision of information/advice**

- (a) Any councillor is entitled to apply to any Director for information and/or advice required in connection with his/her work as a councillor and, provided that the information sought does not breach the law and associated statutory regulations, it is the duty of the officer approached to give that information and/or advice, within the limits of available resources and to the best of his/her ability. Councillors for their part will seek to act reasonably in the number and content of the applications they make.
- (b) If any councillor asks for specific information relating to the work of the Executive or a particular committee or sub-committee and it appears possible or likely that at a subsequent meeting issues will be raised or questions asked on the basis of the information provided, then the appropriate Executive Member or committee Chair shall be advised of

the information sought and given.

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

## **7. General principles**

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

## **8. Support services to councillors and party groups**

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



**9. Correspondence**

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

**10. Conclusion**

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

### **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. Subject to any restrictions caused by commercial, legal or personal confidentiality, 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.

## **SELBY DISTRICT COUNCIL CODE OF CONDUCT FOR OFFICERS**

### **1. Standards**

Employees of Selby District Council are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected to bring any impropriety or breach of procedure to the attention of the appropriate line manager. Such information will be treated in the strictest confidence.

Employees should:

- Accept responsibility for their own professional actions and behaviours;
- Establish, maintain and develop business relationships based on confidence, trust and respect; and
- Safeguard all confidential, commercially sensitive and personal data acquired as a result of business relationships.

### **2. Disclosure**

It is generally accepted that open government is best. The law requires that certain types of information must be available to Councillors, Auditors, Government Departments, service users and the public. Employees should make themselves aware of which information at the Council is open and which is not and act accordingly, particularly relating to Committee/Board meetings.

Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council, should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

### **3. Political Neutrality**

Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group and must ensure that the individual rights of all Councillors are respected.

Where employees are required to advise political groups, they must do so in ways which do not compromise their political neutrality. Both employees and Councillors should be aware of this requirement.

Employees must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

The political activities of certain post holders are restricted due to the seniority, or political sensitivity of the post. Details of these restrictions are incorporated into

individual contracts of employment. A list of politically restricted posts is detailed on the last page of this document.

#### **4. Private Purchasing**

Employees must not use the Council's purchasing systems to purchase items for private use or to secure personal advantage. Employees are not entitled to receive any discount or advantage as a result of their employment with the Council unless this is expressly permitted by the Council, for example through corporate employee discount or voluntary benefit schemes which have been agreed for all employees.

#### **5. Relationships**

##### Councillors

Employees are responsible to the Council through its senior managers. Mutual respect between employees and Councillors is essential to good Local Government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should, therefore, be avoided.

##### Local Community and Service Users

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

##### Contractors

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

Employees who engage or supervise contractors or have any other official relationship with contractors, and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate senior management.

#### **6. Appointment and Other Employment Matters**

As set out in the Council's recruitment and selection manual, employees involved in appointments should ensure that these are made on the basis of merit. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

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

## **7. Outside Commitments**

Employee's off duty hours are their own concern but they should not subordinate their duty to their private interests or put themselves in the position where their duty and private interests conflict.

Employees whose grades include Senior Officer level (band 3a) or above may not engage in any other business or take up any other additional appointment without the express consent of the Council. Such consent is obtained through formal application to the appropriate senior manager.

No outside work of any sort should be undertaken in the office and the use of facilities (computers, laptops, telephones etc.) is forbidden.

## **8. Personal Interests**

Employee must declare, to their line manager, where the appropriate statements are true:

- Any non-financial interests that they consider could bring about conflict with the Council's interests (e.g. member of pressure group potentially opposed to the Council's work).
- Any financial interests which could conflict with the Council's interests.

Employees should also declare to the Council, via the Chief Executive, membership of any secret societies. The definition of "secret society" is as follows:

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

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

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

## **9. Equality Issues**

Employees must ensure that they treat colleagues, service users, members of the public and Councillors fairly, impartially and with dignity and respect. Language and behaviour in the workplace must be conducive to productive and harmonious relationships

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

#### **10. Separation of Roles During Tendering**

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

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts or business run by them, or employing them in a senior or relevant managerial capacity.

#### **11. Corruption**

Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift loan, fee, reward or advantage for doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

#### **12. Use of Financial Resources**

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

#### **13. Hospitality**

Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. It should be properly authorised and recorded. The Chief Executive will obtain authority from the Chairman of the Policy and Finance Committee and all other officers will refer to the Chief Executive.

When hospitality has to be declined, the person who offers the hospitality should be courteously but firmly informed of the Council's procedures and standards.

Employees should not accept significant personal gifts from contractors and outside suppliers, although the employees may use their judgement to accept insignificant items such as pens, diaries etc.

When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

#### **14. Sponsorship**

Where an outside organisation wishes to sponsor or is seeking to sponsor a Local Government activity, either by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance or gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such a sponsorship in a direct way without there being a full disclosure to the relevant senior manager of any such interest. Similarly, where the Council - through sponsorship, grant aid, financial or other means - gives support in the community, employees should ensure that impartial advice is given and there is no conflict of interest involved.

#### **15. Copyright**

All records, documents and other papers relating to the Council's business which are made or obtained by employees in the course of their employment are the property of the Council. The copyright on all such original records, documents, papers (including copies and summaries thereof) belongs to the Council.

#### **16. Private Trading**

Employees are not permitted to carry out private trading in relation to goods, services, or any form of intellectual property (including the posting and distribution of private trading literature) on the Council's premises nor may they do so elsewhere whilst on Council duties.

#### **17. Committee Procedures and Contact with the Media**

Employees must not disclose to the public or media the contents of a confidential or exempt report made to a Committee or the Council. Where a Committee considers matters in confidential session, those proceedings, including all documentation before the Committee, must not be disclosed to members of the public unless required by law or expressly authorised.



Employees must not make statements on matters of policy to the media without consulting their Head of Service. They must also comply with the Protocol for staff engagement with the media.

## **18. Safeguarding**

The Council has a statutory duty to ensure the safety and welfare of children, young people and adults at risk. All employees who, during the course of their employment, have direct or indirect contact with children or adults at risk, or who have access to information about them, have a responsibility to safeguard and promote the welfare of children and adults at risk. The Safeguarding Policy is available via the employee's manager and compliance with it is mandatory.

## **19. Personal Use of Social Media by Employees**

Employees must not assume that their comments on social media will remain private.

Employees must ensure that, in their use of social media, they do not make comments about other employees, councillors or the Council that are or could be perceived to be derogatory, abusive, damaging to the individual's or the Council's reputation or amount to harassment, even where such comments are made outside working hours. They should be mindful that such comments could give rise to legal action.

Employees must ensure that no information is made available that could provide a person with unauthorised access to the Council's confidential information and they must refrain from recording any confidential information regarding the Council on any social networking website.

The Council will take action to prevent misuse of social networking sites as the Council as employer may be vicariously liable for the acts of an employee in certain circumstances. The Council will consider what action to take to address any malicious, untrue or otherwise inappropriate allegations which may circulate on social media sites.

## **20. Personal Appearance**

The Council expects employees to observe a standard of personal appearance which is appropriate to the nature of the work undertaken, follows operational requirements and which portrays a professional approach which the public will have confidence in.

In order that employees can be easily identified ID badges must be worn at all times.

## **21. General**

The sanctions against employees who breach the rules on conduct are serious, including dismissal. Where there is any doubt, employees should err on the side of caution in the areas covered in this policy. Any uncertainties about this policy should be directed to Lead Officer (Human Resources).

## 22. Politically Restricted Posts

Below is a list of current posts which are deemed politically restricted:

- Chief Executive
- Director of Economic Regeneration & Place
- Director of Corporate Services & Commissioning
- Solicitor to the Council
- Head of Service – Business Development & Improvement
- Head of Service – Commissioning, Contracts & Procurement
- Head of Service – Community, Partnerships & Customers
- Head of Service – Operational Services
- Head of Service – Strategic Planning, Policy & Economic Development
- Business Transformation & ICT Manager
- Communications & Marketing Manager
- Customer, Business & Revenues Service Manager
- Democratic Services Manager
- Economic Development & Regeneration Manager
- Housing & Environmental Health Service Manager
- Planning Development Manager
- Planning Policy Manager
- Property & Commercial Services Manager.

N.B. Finance staff are employees of North Yorkshire County Council and seconded to Selby District Council. Any political restrictions on those posts appear in the terms and conditions of the employment contract with North Yorkshire.

**Note – In May 2017 Council gave delegated authority to the Chief Executive to make future amendments to this Code of Conduct in consultation with the Leader of Council.**

## **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 an Officer's 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 Allegations 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, that Councillors should consider withdrawing from the Committee.

3.23.3 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.

3.33.4 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:

3.3.13.4.1 from being closely aligned with ward campaigns or issues;

3.3.23.4.2 from membership of other Committees of the Council;

3.3.33.4.3 from membership of other public or community bodies;

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

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

3.3.63.4.6 from membership of clubs, societies and groups; and

3.3.73.4.7 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.

3.43.5 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.



~~6.36.4~~ 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

~~6.3.16.4.4~~ not seek to meet an applicant or potential applicant alone.

~~6.46.5~~ 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.

~~6.56.6~~ 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.

~~6.66.7~~ 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.

~~6.76.8~~ 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.

~~6.86.9~~ 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~~ Head of Planning and/or the Planning Development Manager 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 Head of Planning and/or the Planning Development Manager ~~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 Head of Planning and/or the Planning Development

~~Manager 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 ~~Head of Planning and/or the Planning Development Manager 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.

**9.69.7** 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.

**9.79.8** 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.

**9.89.9** 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.

**9.99.10** 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 [Head of Planning and/or the Planning Development Manager](#)~~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 [Head of Planning and/or the](#)

Planning Development Manager~~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.

~~10.6~~**10.7** The Committee shall suspend Council Procedure Rules 15.1 and 15.6 (a) of the Council Procedure Rules to allow a more effective debate and flexibility on voting during the consideration of planning applications.

## **11. Site Visits by the Committee**

**11.1** ~~A site visit may be held if the Head of Planning and/or the Planning Development Manager ~~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. The purpose of a site visit is to gather factual information relating to the planning application. 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** Site visits should be requested in advance of the Planning Committee meeting and Councillors should liaise with Officers at the earliest opportunity to consider the need for a site visit.

**11.3** Wherever possible modern technology, such as the use of video recording and satellite imaging, should be made available to the Planning Committee to reduce the need for site visits.

**11.4** 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.

**11.5** Site visits should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.

**11.6** 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; and

- **R** Relevant Parish Councillors.

**11.7** 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.

**11.8** Ward Councillors, Parish Councillors and Objectors will be permitted to attend the site visit unless the landowner refuses access to the site.

**11.9** 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.

**11.10** 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. The Applicant/Agent or other parties e.g. Parish Councillors, Ward Councillors, neighbours or **O**bjectors who attend the site visit will be permitted to point out the salient features relevant to the subsequent decision. However no discussion of or debate on the merits of the proposal will take place on site. Discussion of such matters must take place in the Committee meeting itself. 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.

**11.11** Members of the Committee should address any request for clarification through the Chair of the Planning Committee. Questions should not be directed to the **A**pplicant/**A**gent, **P**arish **C**ouncillors, 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.

**11.12** 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.

**11.13** 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. [There is no provision to split the time between more than one person wishing speak in any role as a speaker.](#)

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~~ [Democratic Services](#) on 01757 292046037 before 3.00pm on the Monday prior to the Committee meeting [to register.](#)

**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. There is also no provision to display maps, photographs or other information on boards or on screens in the meeting room on behalf of those making representations at 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~~their role properly and effectively.

## **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;
  - 3.4.7** from hobbies and other leisure interests; and
  - 3.4.8** from political affiliations.

Such interests may mean that a Councillor is involved with a licensing application before the matter comes before the Committee. Such involvement need not on its

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

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

#### **4. Applications by the Council or a Council Owned Company**

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

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

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

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

#### **5. Statutory Duties**

**5.1** 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:

#### **5.2 Equality Act 2010**

Section 149 provides that:

**5.2.1** 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.

**5.2.2** 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.

### **5.3 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.”

### **5.4 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.”

### **5.5 Crime and Disorder**

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

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

## **6. Lobbying of and by Councillors**

**6.1** Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal may seek to influence the

decision by an approach to their local Councillor or members of the Licensing and Appeals Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.

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

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

## **7. Pre- and Post- Application Discussions and Negotiations**

**7.1** Discussions between an applicant and the licensing authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the licensing process. However, they should take place within clear guidelines, as follows.

**7.2** It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.

**7.3** Advice should be consistent and based upon relevant licensing policies and considerations.

**7.4** A written note should be made of all potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.

**7.5** Councillors need to preserve their role as impartial decision makers and members of Licensing and Appeals Committee should not take part in pre- or post- submission discussions and negotiations with applicants.

**7.6** Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for procedural or technical advice should refer the applicant to the relevant officer.

## **8. Officer Reports to Committee**

**8.1** A Senior Enforcement Officer will submit written reports to the Licensing and Appeals Committee or Sub-Committee on licensing applications to be determined by the Council. The reports will give the background to the application including any relevant licensing history of the site, a description of the proposals, and the relevant law and Council or Government policy considerations. The reports will include a summary of representations made about the application.

**8.2** Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

**8.3** The Senior Enforcement Officer will have available for inspection by Councillors the full application and representations from bodies consulted and members of the public.



## **9. Relevant Considerations**

- 9.1** Local opposition or support for a proposal is not in itself a ground for refusing or granting application, unless that opposition or support is founded upon valid licensing reasons which can be substantiated.
- 9.2** It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the relevant matters and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## **10. The Decision Making Process**

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

## **11. Site Visits by the Committee**

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

## **12. Public Speaking at Licensing and Appeals Committee**

- 11.2** 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.
- 11.3** 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.
- 11.4** In all other cases public speaking will be permitted where it is the interests of natural justice and a fair hearing to do so.

## **13. Training**

- 13.1** 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.
- 13.2** 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.

### **Protocol on Audio/Visual Recording and Photography at Meetings**

1. 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.
2. 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.
3. The guidelines which the Council will apply are:
  - 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.
  - The recording should take place from the public seating area and must be overt (i.e. clearly visible to anyone at the meeting) but non-disruptive.
  - 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.
  - 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.
  - 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.
  - 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;

Selby District Council Constitution Part 5 – Codes and Protocols  
5.8 - Protocol on Recording and Photography at Meetings

- 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.
- 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 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.
4. 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 e.g. to move around the room to record or film from different angles.
- ~~5. 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.~~
- ~~6.5.~~ 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.

## **CODE OF CONDUCT FOR MEMBERS OF THE COMMUNITY ENGAGEMENT FORUMS**

### **PART 1 - GENERAL PROVISIONS**

#### **1. Scope**

A Statutory Partner or Co-opted Member of the CEF must observe this Code of Conduct whenever he/she:

- (i) Conducts the business of the CEF;
- (ii) Acts as a representative of the CEF.

Where a Member of the CEF acts as a representative of the CEF on another relevant body, he/she must, when acting for that other body, comply with that other body's Code of Conduct.

#### **2. When the Code applies**

This Code of Conduct shall not have effect in relation to the activities of a Member of the CEF other than when acting in an official capacity.

#### **3. General Obligations**

As a CEF Member it is important that you recognise from the outset that you are required to play a role in your community. This means not simply offering your own views and opinions on local issues, or taking decisions that are based on your own self-interest.

The role of CEF Member is one that requires you to represent the views of your community, or your section of the community. In practice, this will involve discussing issues with people in the community to clarify their views and assess the strength of their feelings on different topics.

At some point it may be that you will find some conflict between your own personal views and interests and those of the community that you are representing. If such a situation does arise, make sure that the views of the community take precedence.

If the views of individuals on the CEF are allowed to take priority then the community will very quickly lose confidence in the CEF and its work may subsequently be devalued.

In some instances, it may be necessary and appropriate to declare an interest in the matter under discussion and to withdraw from that debate and decision-making. This will be the case where a reasonable member of the public, in full knowledge of relevant facts would be likely to conclude that your private interests are such that you cannot act in the public interest.

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

In undertaking your duties as a member of the CEF

1. You must not behave in a way that a reasonable person would regard as disrespectful to them.
2. You must not bully or intimidate or attempt to bully or intimidate any person.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not bring the Council, or your office as a CEF Member, into disrepute.
5. You must not do anything which may cause the Council to breach any equality enactment
6. You must not use or attempt to use your position as a CEF Member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
7. You must always use the resources of the Council in accordance with the Council's reasonable requirements and never use those resources for political purposes.
8. If, because of your membership of the CEF, you are in receipt of or are offered any gift or hospitality with an estimated value of £50 or more you must decline to accept any such gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a member of the CEF.
9. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
10. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - You have the consent of a person authorised to give it; or
  - You are required by law to do so; or
  - The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party

agrees not to disclose the information to any other person; or

- The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.

#### **4. Respect and Courtesy**

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

#### **5. Discrimination**

No CEF member will discriminate on any ground against any other member of the group or the public, in line with the Equalities Act 2010. Discriminatory language will not be used in discussions. All those who attend meetings have the right to be treated with dignity and respect, regardless of their race, colour, ethnic or national origins, nationality, gender, marital status, age, sexuality, religion or any other matter

#### **6. Role of the Chair**

In Partnership Board meetings the role of the Chair is a *formal* one; all speakers will be expected to address their comments to the Chair. This helps the Chair to keep control of the discussion.

In Community SessionsForums, where proceedings need not be so formal, the Chair may be content simply to steer the general direction of the discussion – this may be described as an *enabling* role.

The Chair is expected to know the rules by which the CEF functions, and ensure that at all stages of its work the CEF is operating in accordance with any procedures that are set down. In this context the Chair may be called upon to act as an arbiter when there is a disagreement about how the rules should be interpreted.

#### **7. Breach of Code of Conduct**

During the meeting if any member breaches the Code of Conduct they will be warned by the Chair, if this behaviour continues they will then be asked to leave the meeting.

If the member continues to breach the Code of Conduct or the behaviour is deemed serious enough then they may be asked not to attend the meetings

until such time that they agree to abide by the code.

## **8. Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members of the CEF and others, we can provide one of the cornerstones of a successful public Community Engagement Forum.

## MEMBERS' ALLOWANCE SCHEME

### 1. BASIC AND SPECIAL RESPONSIBILITY ALLOWANCES\*

The present scheme was adopted by Council in February 2017 following a review of Members' Allowances by an Independent Remuneration Panel.

The scheme provides for a Basic Allowance payable to all Members together with an allowance for Members who have a Special Responsibility. No Member is entitled to receive more than one Special Responsibility Allowance.

**Basic Allowance per annum (per Member)** £4,~~288.23373.99~~

#### SPECIAL RESPONSIBILITY ALLOWANCES:

• Leader of the Council	£10, <del>720.58934.99</del>
• Deputy Leader	£5, <del>574.70686.19</del>
• Executive Members	£5, <del>445.88248.80</del>
• Opposition Group Leader	£2, <del>444.12187.00</del>
• Chair of Overview and Scrutiny Committee	£3, <del>216.17280.49</del>
• Chair of Policy Review Committee	£3, <del>216.17280.49</del>
• Chair of Audit Committee	£2, <del>444.12187.00</del>
• Chair of Planning Committee	£4, <del>288.23373.99</del>
• Licensing Committee	£3, <del>216.17280.49</del>

The Members' Allowances Scheme will be indexed for the next four years (2017-2021) to match local government pay settlements using the National Joint Council (NJC) annual cost of living pay award agreed for Council staff. The next review of Members' Allowances by an Independent Remuneration Panel shall take place prior to implementation in April 2021.

\*These figures have been updated to reflect the pay award agreed for Council staff in April 2018.



## 2. TRAVEL AND SUBSISTENCE

The travel and subsistence allowances payable to Members' are in line with the Officer's Travel and Subsistence Policy.

### TRAVEL

Members' are entitled to claim travelling costs for attending meetings and other duties associated with being a Councillor however travel costs for attending political group meetings will not be paid.

All travel claims must be supported by receipts and must be submitted within three months of the meeting/engagement for which they are claiming taking place.

#### Procedure

All travel claims are to be submitted on a travel claim form. Payment will be made through the payroll on a monthly basis. The form should be submitted by the payroll deadline set.

#### Taxis

The cost of taxis may be reimbursed where their use is considered essential.

### SUBSISTENCE

#### Daily Subsistence Allowance

Breakfast	-	£8.07
Lunch	-	£11.14
Evening Meal	-	£13.81

#### Subsistence Guidelines

##### Breakfast

Payable where training or course commences before 8.00am.

##### Lunch

Payable where the Councillor is attending a meeting or event on Council business outside of the district and is prevented from taking their lunch their place of residence between 12.00 noon and 2.00pm.

##### Dinner

Payable where the Councillor returns after 8.30 pm having worked away on Council business in a location outside of the district.

### Overnight Accommodation

Before Members can claim for overnight accommodation, prior approval is required. This should come from Democratic Services.

### **3. MEMBERS' ICT ALLOWANCE**

Members will be paid a £10 monthly ICT allowance for home broadband and consumable only.

Where Members are provided with a tablet device by the Council then they will be subject to an acceptable usage policy for Members in line with that of the Council's ICT acceptable use policy for staff.

### **4. DEPENDENTS' / CHILD CARERS' ALLOWANCE**

Members will be able to be reimbursed on the production of receipts or evidence of expenditure, for costs incurred with regard to the care of their children or dependents when undertaking the following official duties:

- Attendance at a meeting of the Council including any Committee, Sub-Committee or Working Party of the Council;
- Attendance at any outside body to which the Council makes appointments or nominations, or at any Committee or Sub-Committee of such a body;
- Attendance at a meeting of the Executive or of any other meetings in the role of an Executive Member;
- Attendance at a meeting of any association of Authorities of which the Council is a member.

Any costs will be reimbursed at the rate of the National Living Wage and will include reasonable travel time to and from the location of the meeting.

### **5. THE CHAIRMAN'S ALLOWANCE**

The Chairman will have a budget of £5,910 to support their year in office. This will be split into an allowance of £1,000 and a budget for £4,910 to assist with support and fundraising during their civic year. Any remaining money in the Chairman's budget at the end of their civic year will be given to the Chairman's chosen charity.

### **6. The VICE CHAIRMAN'S ALLOWANCE**

The Vice Chairman will have an allowance of £500 to support their year in office.

## **MANAGEMENT STRUCTURE**

### **General Description**

The Council's management structure is headed by the Chief Executive as Head of Paid Service and he/she, together with the Director of Regeneration and Place, the Director of Corporate Services and Commissioning, the Solicitor to the Council and the Chief Finance Officer, form the Leadership Team.

Heads of Service report in to the Directors and are responsible for various functions.

The Management Structure is shown on the chart overleaf.

# Selby District Council Constitution - Part 7 Management Structure

