



# Constitution

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## Part 1

# A SUMMARY OF THE LINCOLNSHIRE COUNTY COUNCIL CONSTITUTION

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## 1 Introduction

- 1a By law, we must have a formal constitution in place. The constitution sets out how we operate and how we make decisions.
- 1b This summary is to help council members, officers and the public and is not a substitute for the constitution itself. If you are in any doubt, you should always refer to the constitution or speak to the monitoring officer.
- 1c How we act towards members, officers and the public is important. There is a set of values (**PERFORMS**) which are based on Nolan's seven principles of public life.

**Putting customers first**  
**Encouraging innovation**  
**Results matter**  
**Focus on the community**  
**Openness and honesty**  
**Respect everyone**  
**Making a difference**  
**Striving to improve**

### **Lincolnshire County Council – working better for you**

#### **What we want to achieve**

- Building on our strengths
- Protecting your lifestyle
- Working towards a better future

#### **How we plan to do it**

- Making the best use of all our resources
- Investing in current services and providing new services
- Providing you with what you need
- Promoting community wellbeing and strength
- Influencing, coordinating and helping other organisations that contribute to Lincolnshire

- 1d The constitution promises that we will:

- talk and listen to all the people of Lincolnshire;
- provide clear leadership;
- work effectively with members of the public, businesses and other organisations;
- provide improving services which meet the needs and goals of all the people of Lincolnshire; and

- contribute to promoting or improving the economic, social and environmental well-being of Lincolnshire.

## **2 The Full Council**

- 2a The Full Council is made up of 70 members, and all members play a part in the running of the Council.
- 2b The Council's role is to approve our main policies and the annual budget (which we refer to as the Budget and Policy Framework). It also decides on other matters and these are set out in article 4 of the constitution.
- 2c In most cases, the Executive (see section 3) makes decisions and all our members are told about these.
- 2d The Full Council may also get reports from our other committees, and recommendations and reports from the Overview and Scrutiny Committees.
- 2e All decisions taken must be made within the Budget and Policy Framework.
- 2f We run Full Council meetings in line with procedure rules (see part 4 of the constitution). These rules set out how Full Council meetings are carried out.
- 2g Our meetings are open to the public, unless we are considering personal, sensitive or private matters.

## **3 The Executive**

- 3a The Executive is made up of a leader and up to nine other councillors, who the leader appoints. When the Executive makes or discusses major decisions, these are published in the Executive's 'Forward Plan'. The meetings are normally open to the public, unless private matters are being discussed. The Executive has to make decisions which are in line with our Policy and Budget Framework. If the Executive wants to make a decision outside the framework, it must first refer it to full council to decide.
- 3b All members of the Executive have a portfolio, which is a particular area of responsibility. The portfolios are as follows.
  - Governance, Communications and Commissioning
  - Adult Care and Health Services, Children's Services
  - Economic Development, Environment, Planning, Tourism
  - Highways, Transport, IT
  - Finance, Property



- Fire & Rescue, Emergency Planning, Trading Standards, Equality and Diversity
  - Waste, Recycling
  - NHS Liaison, Community Engagement
  - Libraries, Heritage, Culture, Registration and Coroners Service
  - Crime Reduction, People Management, Legal
- 3c The Executive takes decisions as a group, though individual Executive Councillors also have powers to take decisions on behalf of the Executive.
- 4 **The Forward Plan**
- 4a The purpose of the Forward Plan is to let the public and elected members (councillors) know when important decisions are to be taken so that they can raise matters of concern with their division councillors or with the members of the Executive.
- 5 **Calling in Executive Decisions**
- 5a 'Calling in' is the process which allows Non-Executive Councillors to challenge Executive, Executive Councillor and Chief Officer decisions.
- 6 **Overview and Scrutiny**
- 6a Overview and Scrutiny means reviewing and questioning decisions. Our Overview and Scrutiny Management Board is supported by the following Overview and Scrutiny Committees.
- Adults and Community Wellbeing Scrutiny Committee
  - Children and Young People Scrutiny Committee
  - Public Protection and Communities Scrutiny Committee
  - Environment and Economy Scrutiny Committee
  - Flood and Water Management Scrutiny Committee
  - Health Scrutiny Committee for Lincolnshire
  - Highways and Transport Scrutiny Committee
- 6b Councillor Call for Action (CCfA) can be used by any Councillor to raise a problem that affects a significant number of local residents and has not been dealt with in the other ways available.
- 7 **Non-Executive Committees**
- 7a By law, the Executive cannot deal with some matters (mainly planning, licensing and regulatory matters and issues the Full Council deals with).

- 7b We currently run the following Non-Executive Committees
- Pensions Committee
  - Planning and Regulation Committee
  - Definitive Map and Statement of Public Rights of Way Sub-Committee
  - Appointments Committee
  - Pay Policy Sub-Committee
  - Audit Committee
  - Health and Wellbeing Board
- 7c The Pensions Committee is responsible for overseeing the Local Government Pension Scheme.
- 7d The Planning and Regulation Committee is responsible for determining all the planning applications that cannot be decided under delegated powers (decisions which officers can take) and other matters to do with highways, transportation and rights of way.
- 7e The Definitive Map and Statement of Public Rights of Way Sub-Committee is responsible for any changes made to the definitive map.
- 7f The Appointments Committee is responsible for recruitment and employment relating to chief officers.
- 7g The Pay Policy Sub-Committee is responsible for carrying out a yearly review of Chief Officer Salaries.
- 7h The Audit Committee is responsible for approving the Annual Statement of Accounts, monitoring our financial methods of working (including risk management), reviewing all audit activity, promoting financial best practice and overseeing the Council's Ethical Framework including the Members' Code of Conduct.
- 7i The Health and Wellbeing Board is responsible for preparing and publishing a Joint Strategic Needs Assessment and a Joint Health and Wellbeing Strategy and for promoting integrated working including joint commissioning.
- 8 The Scheme of Delegation – Officers**
- 8a We ask our officers to make sure our services are provided effectively each day. Part 3 of the constitution includes the details of the various officers and their area of responsibility.

## **9 Monitoring what we do**

9a We must appoint a Head of Paid Service, Chief Financial Officer, a Monitoring Officer, a Statutory Scrutiny Officer, (acting jointly with the Secretary of State) a Director of Public Health, and a Director of Children's Services and of Adult Social Care. Each of these officers has specific responsibilities but together they are responsible for making sure we put in place effective, efficient and well-designed arrangements for overseeing what we do.

### **9b Head of Paid Service**

9b1 The Chief Executive is our designated Head of Paid Service. He or she is responsible for managing the workforce and has overall responsibility for how we carry out our services.

9b2 The Head of Paid Service may not be the Monitoring Officer but may hold the position of Section 151 Officer (see 9d).

### **9c Monitoring Officer**

9c1 The Monitoring Officer is responsible for:

- advising us about our powers and responsibilities;
- making sure our decisions are fair and keep to the law;
- updating and advising us on the constitution;
- supporting and promoting high standards of behaviour among our councillors and officers; and
- making sure we know Executive decisions are kept within our Budget and Policy Framework.

### **9d Section 151 Officer**

9d1 The 151 Officer is responsible for:

- looking after our financial affairs;
- making sure (with the Monitoring Officer) our financial dealings keep to the law;
- providing professional financial advice; and
- supporting and advising our councillors on the budgetary framework.

## **10 Access to Information**

10a All Full Council, Executive and Overview and Scrutiny meetings and the Non-Executive committees are open to the public unless private or sensitive matters are being discussed. The Access to Information Procedure Rules are set out in part 4 of the constitution and list the rights of elected members and members of the public to see our agenda, reports and minutes.

## 11 **Our Ethical Framework**

### 11a Code of Conduct for members

11a1 All our members must keep to a code of conduct. The code includes specific responsibilities, for example, to do with:

- declaring interests at meetings;
- registering financial and other interests; and
- general standards of conduct and behaviour.

## 12 **Member and Officer Rules**

12a We have rules in place for members and officers. These rules set out the roles and responsibilities of elected members and officers.

12b The rules include guidance on:

- the general responsibilities of elected members;
- the relationship between members and officers;
- officer relationships with political groups;
- members' information access rights;
- complaints about officers;
- member roles; and
- media relations.

## 13 **Petitions**

13a We have adopted a petitions scheme, which is set out in part 5, section D6 of the constitution.

13b We have an 'e-petition' scheme, where anyone who lives, works or studies in the local authority area can sign or organise a petition which they can then send to us by e-mail.

## 14 **Contract Regulations**

14a The contract regulations form the framework within which we can buy goods, works and services.

## 15 **The Financial Framework**

15a We must put in place a financial framework that makes sure we use public money properly. The financial procedure rules, the contract procedure rules and the scheme of delegation are all part of the financial framework.

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## **Part 2**

# **ARTICLES OF THE CONSTITUTION**

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## ARTICLE 1 – THE CONSTITUTION

The Articles of the Constitution explain how the Council works.

### **1.01 Powers and duties of the Council**

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

### **1.02 The Constitution**

The Council's Constitution consists of Parts 1 to 7 of this document.

### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
2. support the active involvement of members of the public in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

### **1.04 Suspension of the Constitution**

#### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The Rules of

Procedure may be suspended by the full Council to the extent permitted within those Rules and the law.

**(b) Procedure to suspend**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors is 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 this 1.

**1.05 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 and to ensure that appropriate amendments are recommended as and when necessary for the purpose of updating or improving the Constitution. The Monitoring Officer shall review the Constitution annually with a view to recommending any such amendments to the Annual Meeting of the Council.

**Protocol for monitoring and review of Constitution by Monitoring Officer**

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

1. observe meetings of different parts of the Councillor and non-elected member and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with them/him/her by Councillors, non-elected members, Officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

In formulating recommendations for amendments to the Constitution the Monitoring Officer may convene a group of Councillors and where in the Monitoring Officer's opinion it is appropriate other stakeholders to advise him or her on any amendments.

**1.06 Approval of changes to the Constitution**

Other than changes to the Constitution which are matters of fact, update or



amend references to statutory provisions or correct typographical errors in which case the amendments can be made by the Monitoring Officer, changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

However, if either

- (a) the Head of Paid Service makes changes to the organisation of the Council's staff or the way in which the delivery of functions is organised at officer level which impact on the specific powers of the Head of Paid Service, Chief Officers and other officers contained in section C (Delegations to Head of Paid Service and All Chief Officers) in Part 3 of the Constitution (Responsibility for Functions); or
- (b) the officer appointed from time to time under section 151 of the Local Government Act 1972 determines that changes are necessary to the Financial Regulations contained in Part 4 of the Constitution for the proper administration of the Council's financial affairs

and the said officers determine that in the interests of the Council the said changes should be implemented in advance of the next available opportunity for the Constitution to be formally amended by full Council, then the said officers may make such minimum amendments to those parts of the Constitution referred to above as shall be necessary to reflect the proposed changes PROVIDED ALWAYS that before making such changes such officers obtain the Agreement of the Monitoring Officer, the Leader of the Council, the Leader of the Opposition, the Chairman of the Overview and Scrutiny Management Committee and the Chairman of the Audit Committee.

The changes shall be submitted to the next available meeting of the Council to consider formal approval. Regardless of whether the changes are formally approved by the Council, decisions and actions taken in reliance on changes to the Constitution duly made under this paragraph between implementation of the changes and the decision whether or not to approve those changes shall be treated as having been taken in accordance with the Constitution.

#### **1.07 Interpretation 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 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 this Article 1.

For the purpose of this Constitution “a working day” is defined as a day on which the County Offices is open for its normal working hours. In calculating a period of “clear working days” between two events the day on which the first event occurs and the day on which the second event occurs shall be ignored.

#### **1.08 Publication**

- (a) The Monitoring Officer will ensure access to an electronic 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 Monitoring Officer will ensure that printed copies are available for inspection at Council Offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that an electronic copy of the Constitution is available on the Council’s website.

#### **1.09 Executive Arrangements**

The following parts of this Constitution constitute the Executive arrangements:

- 1. Article 5 (The Executive) and the Executive Procedure Rules.
- 2. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules.
- 3. Article 8 (Joint arrangements).
- 4. Article 10 (Decision making) and the Access to Information Procedure Rules.
- 5. Part 3 (Responsibility for Functions).

## ARTICLE 2 – MEMBERS OF THE PUBLIC AND THE COUNCIL

### 2.01 Rights of Members of the Public

Members of the Public have the following rights.

#### (a) **Voting and referendum petitions**

Members of the Public on the electoral roll for the area have the right to vote, and sign a petition to request a referendum for an elected mayor form of Constitution. Further information regarding voting can be found on the Electoral Commission website [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

#### (b) **Information**

Members of the Public have the right to have access to information as set out in the Access to Information Procedure Rules at Part 4 of this Constitution.

They also have the right under the Freedom of Information Act 2000 to request information in the possession of the Council and to receive such information subject to certain defined exceptions.

They have a right to make representations about why a meeting of the Executive or its Committees or part of such a meeting, should be open to the public when a notice of an intention to meet in private is published.

They have the right to access their own data through a Subject Access Request under the Data Protection Act 1998.

#### (c) **Attendance at Meetings**

Members of the Public have the right to attend meetings of the Council as set out in the Access to Information Procedure Rules at Part 4 of this Constitution

#### (d) **Inspection of the Accounts**

Members of the Public have the right to inspect the Council's accounts and make their views known to the external auditor.

#### (e) **Complaints**

Members of the Public have the right to complain to:

- (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Council's Monitoring Officer about a breach of the Code of Conduct for Members; and
  - (iv) the Information Commissioner about a breach of the Council's obligations under the Data Protection Act 1998, the Freedom of Information Act 2000, or the Environmental Information Act 2004.
- (f) **Petitions**

Members of the Public have the right to petition the Council. The Petition Scheme at Part 5 of this Constitution shall apply to petitions presented to the Council.

## **2.02 Consultation**

The Council will consult with Members of the Public and its partner organisations in accordance with its legal obligations and such community engagement and/or consultation strategies as it may adopt from time to time.

## **2.03 Communication**

The Council will adopt a communication strategy from time to time governing how it will communicate with the public.

## **2.04 Responsibilities of Members of the Public**

Members of the Public must not be violent, abusive or threatening to Councillors or Officers and must not intentionally damage property owned or controlled by the Council, Councillors or Officers.

## ARTICLE 3 – MEMBERS OF THE COUNCIL

### 3.01 Composition and eligibility

#### (a) **Composition**

The Council will comprise 70 Members, otherwise called Councillors. One Councillor will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.

#### (b) **Eligibility**

Only registered voters of the county or those living or working there will be eligible to hold the office of Councillor. Further information can be found on the Electoral Commission website [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

### 3.02 Election and terms of Councillors

#### **Election and terms**

The regular election of Councillors will usually be held on the first Thursday in May every four years beginning in 2001. The terms of office of Councillors will start on the fourth working day after being elected and will finish on the fourth working day after the date of the next regular election.

### 3.03 Roles and functions of all Councillors

#### (a) **Key roles**

##### **All Councillors will:**

- (i) effectively represent the interests of their division and individual constituents;
- (ii) actively encourage community participation and bring community views into the Council's decision making process;
- (iii) respond to constituents' enquiries and representations, fairly and with impartiality;
- (iv) participate in the governance and management of the Council;

- (v) be involved in decision making;
- (vi) contribute collectively to strategic and policy issues;
- (vii) be available to represent the Council on other bodies;
- (viii) balance different, often conflicting interests;
- (ix) maintain the highest standards of conduct and ethics.

**(b) Rights and duties**

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

### **3.04 Conduct**

Councillors will at all times observe the Members' Code of Conduct and all Protocols in Part 5 of this Constitution as approved by the Council from time to time.

### **3.05 Political Groups**

Most if not all Councillors will be members of political groups and membership of the main Committees of the Council will be allocated to the groups in proportion to their representation on the Council as a whole.

The Council will recognise the following categories of political groups

- (i) The Ruling Group

This will usually be the political group with the greatest number of seats on the Council.

The Leader of the Council and the members of the Executive will normally be drawn from the Ruling Group.

(ii) The Opposition Group

This will usually be the political group with the second greatest number of seats on the Council.

The leader of this political group will be the Leader of the Opposition.

The Leader of the Opposition may appoint members of his or her political group to shadow the areas of responsibility of Executive Councillors. If so such members of the Opposition Group will be known individually as Shadow Executive Councillors and collectively as the Shadow Executive.

(iii) The Minority Groups

These are the other political groups on the Council.

The position of the leaders of these groups is acknowledged under the Constitution but not any shadow executive they may choose to form.

### **3.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme as detailed at Part 6 of this Constitution.

### **3.07 Local members**

Councillors will notify and consult with other Councillors before becoming involved in a matter relating to that other Councillor's division.

### **3.08 Added members**

Some Committees of the Council have members who are not elected county councillors. Such members are referred to in this Constitution as Added Members. Unless inconsistent with the law or the context, references in this Constitution to Councillors and members (other than references to Executive Councillors) shall include Added Members.

## ARTICLE 4 – THE FULL COUNCIL

### 4.01 Meanings

#### (a) **Policy Framework**

The policy framework means the following plans and strategies:

- (i) Those required by law to be adopted by the Council
  - Annual Review of Pay Policy
  - Council Business Plan
  - Local Transport Plan
  - The Youth Justice Plan
  - Waste Local Plan
  - Mineral Local Plan
  - Joint Municipal Waste Strategy
  - Financial Strategy
- (ii) Those other plans and strategies which the Council has determined should be part of the Policy Framework:
  - Adult Learning Plan
  - Quality Protect Management Plan
  - Asset Management Plan
  - Children & Young Persons Plan
  - Financial Strategy
  - Community Engagement Strategy 2013/18



(b) **Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions' relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

**4.02 Functions of the full Council**

The Council and only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget or changing the policy framework and the budget except those changes to the policy framework which are necessary to ensure compliance with the law, ministerial direction or government guidance which may be made by the Executive, a Committee of the Executive, an individual Executive Councillor or an Officer in accordance with rule 8 of the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.
- (c) making any Executive decisions about any matter in the discharge of an Executive function where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget; except where such decision is subject to the urgency procedure contained in Rule 16 of the Access to Information Procedure Rules in Part 4.
- (d) electing and removing the Leader of the Council;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them including appointment of Chairman and Vice Chairman, but excluding the Chairman and Vice Chairman of the Health Scrutiny Committee for Lincolnshire, the Lincolnshire Health and Wellbeing Board and the Bourne Town Hall Trust Management Committee who will be appointed by the Committee/Board;
- (f) appointing representatives of the Council to outside bodies unless the appointment is an Executive function under Part 3 of this Constitution or has been delegated by the Council.;
- (g) adopting a Scheme of Members' Allowances;
- (h) changing the name of the area;
- (i) approving the appointment of Head of Paid Service;

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- (j) approving the dismissal of the Head of Paid Service, Section 151 Officer and Monitoring Officer
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills in Parliament;
- (l) adopting or changing the Members' Code of Conduct;
- (m) appointing the Returning Officer for County Council elections;
- (n) submission of proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000;
- (o) power to confer title of honorary alderman;
- (p) functions relating to sea fisheries;
- (q) power to make standing orders;
- (r) duty to make arrangements for proper administration of financial affairs, etc;
- (s) power to appoint Officers for particular purposes (appointment of "Proper Officers");
- (t) duty to designate Officer as the head of authority's paid service, Section 151 Officer, Monitoring Officer, Statutory Scrutiny Officer, Director Adult Social Services, Director of Children's Services, Traffic Manager, and a duty (acting jointly with the Secretary of State) to appoint a Director of Public Health, and to provide staff to them;
- (u) consideration of a Report from a Local Commissioner under section 31 or a further Report under section 31A of the Local Government Act 1974 and of actions taken or proposed to be taken in response; and
- (v) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

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

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

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

#### **4.05 Development of the Budget and Policy Framework**

The Budget and Policy Framework will be developed in accordance with Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.

#### **4.06 Role and function of the Chairman of the Council**

The Chairman will be elected by the Council annually. The Chairman's responsibilities will include:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. 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 the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of 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 to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council;
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
7. to be consulted on any matter where consultation with the Chairman of the County Council is required under this Constitution.

**4.07** The Chairman shall in the conduct of meetings and otherwise seek to protect the interests of all Councillors and added members of the County Council in contributing to and involvement in the work of the Council and particularly those Councillors who are not Executive Councillors.

**4.08** To support the independence of the role, the Chairman of the Council will not hold other offices during his/her term.

## ARTICLE 5 – THE EXECUTIVE

### 5.01 Role

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.

### 5.02 Form and Composition

The Executive will consist of a minimum of two and a maximum of 10 Councillors being the Leader and up to 9 Councillors appointed to the Executive by the Leader.

The Leader will appoint at least one of the Executive Councillors as Deputy Leader with authority to act in the absence of the Leader. The Leader shall be entitled to remove a Deputy Leader from Office and shall give written notice thereof to the Head of Paid Service. The removal will take effect two clear working days after receipt of the Notice by the Head of Paid Service.

One of the Executive Councillors appointed by the Leader will have specific responsibility for the exercise of Executive functions in relation to the Council's responsibilities as fire authority.

### 5.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council at the beginning of each 4-year term. The Leader will hold office until the next election of all Councillors of the Council or (if earlier) until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a Councillor; or
- (c) he/she is removed from the office of Leader by resolution of the Council in which case a new Leader shall be elected by the Council at the meeting at which the Leader was removed from office or at a subsequent meeting.

### 5.04 Other Executive Councillors

Other Executive Councillors shall hold office until:

- (a) they resign from the office; or

- (b) they are no longer Councillors; or
- (c) they are removed from the office by the Leader who must give written notice of any removal to the Head of Paid Service. The removal will take effect two clear working days after receipt of the notice by the Head of Paid Service.

#### **5.05 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.

#### **5.06 Responsibility for functions**

The Leader will comply with the requirements of the Executive Procedure Rules requiring the maintenance of a scheme setting out which individual Executive Councillors, Committees of the Executive, Officers or joint arrangements are responsible for the exercise of particular Executive functions as detailed in Part 3 of this Constitution.

#### **5.07 Executive Support Councillors**

The Leader will appoint Executive Support Councillors who can attend and speak at meetings in place of the Executive Councillor.

## ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

### 6.01 Appointment of Overview and Scrutiny Committees

The County Council will appoint the following Overview and Scrutiny Committees: -

- Overview and Scrutiny Management Board
- Adults and Community Wellbeing Scrutiny Committee
- Children and Young People Scrutiny Committee
- Public Protection and Communities Scrutiny Committee
- Environment and Economy Scrutiny Committee
- Flood and Water Management Scrutiny Committee
- Health Scrutiny Committee for Lincolnshire
- Highways and Transport Scrutiny Committee

Each Overview and Scrutiny Committee will undertake its role in accordance with the provisions in this Article, in addition to legislative requirements, relevant regulations, statutory guidance and the provisions specified throughout the Constitution.

All Councillors except Executive Councillors may be members of an Overview and Scrutiny Committee. No Councillor may be involved in scrutinising a decision in which he/she has been directly involved. Executive Support Councillors may not be members of an Overview and Scrutiny Committee relating to their portfolio area.

There will be two standing Scrutiny Panels (Scrutiny Panel A and Scrutiny Panel B) whose role will be to conduct in-depth scrutiny reviews on behalf of Overview and Scrutiny Committees. Each Scrutiny Panel will have a Chairman and Vice-Chairman appointed by the Council. Membership of each Scrutiny Panel (apart from the Chairman and Vice-Chairman) will be appointed by the Overview and Scrutiny Management Board as and when the Scrutiny Panel is convened in respect of a particular review. All Councillors except Executive Councillors may be members of a Scrutiny Panel. No Councillor may be involved in scrutinising a decision in which he/she has been directly involved. Executive Support Councillors may not be members of a Scrutiny Panel when it is conducting a review relating to their portfolio area.

In addition to the Overview and Scrutiny Committees and Scrutiny Panels, the following bodies will be appointed to complement the activities of the overview and scrutiny committees:

- Corporate Parenting Panel

The Scrutiny Panels and Corporate Parenting Panel while being part of the Council's Overview and Scrutiny arrangements are not committees of the Council.

## **6.02 Overview and Scrutiny Management Board**

### Membership

The County Council will determine the number of members of the Council who will serve on the Overview and Scrutiny Management Board. The Overview and Scrutiny Management Board will also include the church and parent governor representatives as members as set out in Annex A to these Articles. Church and parent governor representatives are entitled to participate at meetings of the Board, but may only vote when an education matter is to be determined.

### Terms of Reference

The Overview and Scrutiny Management Board may exercise the following functions: -

- To review and scrutinise the following services and their outcomes:
  - Information management and technology;
  - Corporate property;
  - People management;
  - Legal services;
  - Commercial services including procurement and contract management;
  - Business support to the Council's activities; and
  - Finance and treasury management.
- To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Board.
- To review and scrutinise the Council's overall budget (including revenue budget and capital programme) and performance against the Council's Business Plan.
- To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
- To consider and respond to any proposals from the Executive as part of the development of the budget and policy framework.
- To approve the Overview and Scrutiny Annual Report, prior to its submission to the County Council.
- To prepare the Overview and Scrutiny Annual Work Programme for submission to full Council for approval.

- To agree and monitor the ongoing Overview and Scrutiny work programme, in particular holding the Chairmen and/or Vice-Chairmen to account for their Committee's work programme, on a quarterly basis.
- To monitor and guide the activities of the other Overview and Scrutiny Committees.
- To consider any decision which has been made by the Executive or any Executive Councillor or any key decision made by an officer and which have been called in. (This will be undertaken in accordance with Overview and Scrutiny Procedure Rule 15).
- To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer.
- To consider any proposals for Scrutiny Reviews from the Overview and Scrutiny Committees and determine the work programme of the Scrutiny Panels by utilising the Prioritisation Toolkit.
- To approve any changes to the focus or duration of the Scrutiny Reviews undertaken by the Scrutiny Panels.
- To consider and determine requests from Councillors submitted under the Councillor Call for Action procedure, except for requests submitted by Councillors relating to crime and disorder.
- To monitor any Working Group activity initiated by any of the Overview and Scrutiny Committees and to approve any extension to the duration of a Working Group.
- To scrutinise any significant, cross cutting issue affecting more than one of the other scrutiny committees including performance or pre-decision scrutiny.
- To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.

### **6.03 Adults and Community Wellbeing Scrutiny Committee**

#### Membership

The County Council will determine the number of members of the Council who will serve on the Adults and Community Wellbeing Scrutiny Committee.

#### Terms of Reference

The Adults and Community Wellbeing Scrutiny Committee is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - adult care services for frailty, people with long term conditions; for older people; for people with physical disabilities and for people with sensory impairment;



- adult care services for people with learning disabilities; for people with autism; and for people with mental health needs, including dementia;
  - adult care services for carers;
  - adult safeguarding and the protection of adults at risk including observance of the Mental Capacity Act;
  - statutory public health services; and
  - wellbeing services, including health improvement, prevention and self-management; mental health; sexual health; housing-related support; and the prevention, treatment and recovery elements of substance misuse services.
- To review and scrutinise activities arising from integration and joint agreements with the NHS, which support or are incidental to the provision of services related to adult care and public health.
  - To review and scrutinise any joint funding arrangements or agreements developed in partnership with the local NHS.
  - To consider the Annual Report of the Director of Public Health on the Health of the People of Lincolnshire, using the report to inform the Committee's work programme.
  - To review and scrutinise publications such as the market position statement or local account and the provision of information and advice by Adult Care and Public Health.
  - To review and scrutinise quality and contract compliance in the care market.
  - To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Committee.
  - To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
  - To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
  - To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the above services.
  - To submit requests to the Overview and Scrutiny Management Board for in-depth reviews, in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
  - To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.

- To consider and respond to any proposals from the Executive as part of the development of the policy framework.
- To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.
- To appoint working groups in accordance with the provisions in the Overview and Scrutiny Procedure Rules.
- To liaise as required with Healthwatch Lincolnshire in relation to adult care matters, to consider any referrals made to the Committee by Healthwatch Lincolnshire and to agree a protocol for working with Healthwatch Lincolnshire.
- To scrutinise the effectiveness of the Lincolnshire Safeguarding Adults Board's arrangements for ensuring agencies work together:
  - to protect adults at risk from abuse
  - to promote the wellbeing and safety of adults at risk and to reduce the risk of abuse occurring
  - to promote a community involvement in safeguarding adults and promoting their welfare by raising awareness through publicity and training
  - to develop and review policies and procedures
  - to ensure systems are in place to monitor the implementation of the lessons learnt from safeguarding adult reviews
  - to ensure the multi-agency and independent sector workforce is trained to safeguarding adults and improve safety
- To review and scrutinise the Lincolnshire Safeguarding Adults Board's strategy, business plan and annual report including any updates on progress with the implementation of the priorities in the business plan.
- To review and scrutinise the outcomes of any external inspection or peer review of the Lincolnshire Safeguarding Adults Board including any action plans arising from the inspection or peer review.
- To have oversight of contemporary challenges which affect the Adult Care and Public Health functions under the remit of the Committee

## **6.04 Children and Young People Scrutiny Committee**

### Membership

The County Council will determine the number of members of the Council who will serve on the Children and Young People Scrutiny Committee. The Children and Young People Scrutiny Committee will also include the church and parent governor representatives as members as set out in Annex A to these Articles. These members are entitled to participate at meetings of the Committee, but may only vote when education matters are to be determined.

## Terms of Reference

The Children and Young People Scrutiny Committee is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - Children's centres
  - Early education
  - School support services
  - School improvement
  - Special Educational Needs and Disabilities
  - Home to school/college transport
  - 14-19 education, training and apprenticeship
  - Careers service
  - Positive activities for young people
  - Teenage pregnancy
  - Supported accommodation and lodgings
  - Supported employment for young people
  - Lincolnshire Secure Unit
  - Youth Offending Service
  - Leaving care service
  - School nursing
  - Healthy schools and healthy child
  - Child protection
  - Looked After Children
  - Targeted support – young people
  - Fostering and adoption
  - Residential homes for children
  - Child and Adolescent Mental Health Services (CAMHS)
  - Family support
- To maintain an overview of the activity of academy schools, colleges and universities in the County.
- To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Committee.
- To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
- To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
- To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the above services.
- To submit requests to the Overview and Scrutiny Management Board for

in-depth scrutiny reviews in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.

- To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.
- To consider and respond to any proposals from the Executive as part of the development of the policy framework.
- To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.
- To scrutinise the effectiveness of the Lincolnshire Safeguarding Children Partnership's arrangements for ensuring agencies work together:
  - protect children from maltreatment and prevent impairment of children's health and development
  - to ensure that children grow up in circumstances consistent with the provision of safe effective care
  - to promote a community involvement in safeguarding children and promoting their welfare by raising awareness through publicity and training
  - to develop and review policies and procedures
  - to have the safest possible practices in relation to the recruitment and selection of all those who work with children in a statutory and voluntary capacity
  - to ensure systems are in place to monitor the implementation of the lessons learnt from serious case reviews
  - to ensure the multi-agency and independent sector workforce is trained to safeguard children and improve safety
- To review and scrutinise the Lincolnshire Safeguarding Children Partnership's strategy, business plan and annual report including any updates on progress with the implementation of the priorities in the business plan.
- To review and scrutinise the outcomes of any external inspection or peer review of the Lincolnshire Safeguarding Children Partnership including any action plans arising from the inspection or peer review.

## **6.05 Public Protection and Communities Scrutiny Committee**

### Membership

The County Council will determine the number of members of the Council who will serve on the Public Protection and Communities Scrutiny Committee.

## Terms of Reference

The Public Protection and Communities Scrutiny Committee is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - Volunteering support
  - Adult education
  - Financial inclusion
  - Community engagement and development
  - Community hubs
  - Library services and archives
  - Heritage Services
  - Preventing and reducing crime
  - Tackling domestic abuse
  - Fire and rescue and emergency response
  - Trading standards
  - Emergency planning
  - Road safety
  - Reducing anti-social behaviour
  - Registration, celebratory and coroner's services
- To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Committee.
- To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
- To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
- To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the above services.
- To submit requests to the Overview and Scrutiny Management Board, for in-depth scrutiny reviews in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
- To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.
- To consider and respond to any proposals from the Executive as part of the development of the policy framework.
- To make reports and recommendations to the County Council, the

Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.

- To act as the Crime and Disorder Committee for the purposes of sections 19 and 20 of the Police and Justice Act 2006, including the power:
  - To co-opt additional members
  - To make reports or recommendations to a responsible authority or co-operating person or body
  - To consider and determine requests from Councillors submitted under the Councillor Call for Action procedure relating to Crime and Disorder
  - To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above

## **6.06 Environment and Economy Scrutiny Committee**

### Membership

The County Council will determine the number of members of the Council who will serve on the Environment and Economy Scrutiny Committee.

### Terms of Reference

The Environment and Economy Scrutiny Committee is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - Economic development projects including broadband
  - Environment and growth, including:
    - Carbon management
    - The natural and built environment
    - Sustainable planning and the historic environment
    - growth and access
  - Waste management, including waste recovery and recycling
  - Skills and employability
  - Support to business and growth sectors
  - Business investment
  - Attracting funding for Lincolnshire, including the Greater Lincolnshire Local Enterprise Partnership
  - Tourism operation and development
- To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available

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performance measures related to the service areas within the remit of the Committee.

- To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
- To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
- To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the above services.
- To submit requests to the Overview and Scrutiny Management Board for in-depth scrutiny reviews, in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
- To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.
- To consider and respond to any proposals from the Executive as part of the development of the policy framework.
- To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.

## **6.07 Flood and Water Management Scrutiny Committee**

### Membership

The County Council will determine the number of members of the Council who will serve on the Flood and Water Management Scrutiny Committee along with seven co-opted non-executive district councillors, one to be nominated by each of Lincolnshire's seven district councils.

The seven co-opted district councillors will have full voting rights on the Committee and replacement members will be permitted, as set out in the scheme adopted by the County Council in accordance with paragraphs 11-13 of Schedule A1 of the Local Government Act 2000. (See below)

The Flood and Water Management Scrutiny Committee will meet as frequently as is required to perform its role.

### Terms of Reference

The Flood and Water Management Committee will be authorised to consider the following:

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- The development and delivery of the Local Flood Risk Management Strategy; including the delivery of the Lincolnshire Common Works Programme.
- The effectiveness of the Lincolnshire Flood Risk and Drainage Management Partnership and related partnership developments.
- Lincolnshire County Council's delivery of its local leadership role in relation to flood and water management.
- The work of all flood risk management authorities operating within Lincolnshire.
- The local implementation of the Environment Agency-led National Strategy for Flood Risk and Coastal Erosion.
- Action plans relating to all relevant plans and strategies, such as (but not exclusively) Shoreline Management Plans and Catchment Flood Management Plans (main rivers).
- All major strategic initiatives relating to water management.
- The Greater Lincolnshire Local Enterprise Partnership's Water Management Board, including the development and implementation of its Water Management Plan.
- Any other matter with particular relevance to flood risk and water management within Lincolnshire or likely to affect Lincolnshire.

## **Scheme for the Co-option of Voting Members on the County Council's Flood and Water Management Scrutiny Committee**

### **1. Definitions**

This scheme is made in accordance with Paragraphs 11-13 of Schedule A1 of the Local Government Act 2000.

The Council is Lincolnshire County Council.

The Flood and Water Management Scrutiny Committee is an overview and scrutiny committee appointed pursuant to Section 9FH of the Local Government Act 2000.

A Co-opted Member is a member of the Flood and Water Management Scrutiny Committee, who has been duly nominated and appointed by a district council in Lincolnshire in accordance with this scheme.

### **2. Nomination and Appointment**

The County Council will allow each district council in Lincolnshire to nominate a non-executive councillor, to serve as a member of the Council's Flood and Water Management Scrutiny Committee. Each district council may at any time nominate a replacement member to serve in place of the nominated member.



### **3. Voting**

The county councillors and the seven co-opted district councillors on the Council's Flood and Water Management Scrutiny Committee will have full voting rights at meetings of the Flood and Water Management Scrutiny Committee.

### **4. Code of Conduct**

Co-opted members, as district councillors, will be subject to the Member Code of Conduct.

### **5. Allowances**

Co-opted members, as district councillors, will be entitled to allowances and expenses in accordance with the scheme adopted by the district council of which they are a member.

## **6.08 Health Scrutiny Committee for Lincolnshire**

### Membership

The Health Scrutiny Committee for Lincolnshire will comprise sixteen members appointed as follows: -

- eight members of the County Council, appointed in accordance with the political balance provisions of the Local Government and Housing Act 1989;
- one member appointed by each district council in Lincolnshire, appointed in accordance with the scheme adopted by the County Council in accordance with paragraphs 11-13 of Schedule A1 of the Local Government Act 2000; and
- one member (without voting rights) nominated by Healthwatch Lincolnshire.

### Terms of Reference

The Health Scrutiny Committee for Lincolnshire is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - NHS funded health care; and
  - Health and Well-Being Board, including in particular the Board's development of the Joint Strategic Needs Assessment, the Joint Health and Wellbeing Strategy, the Pharmaceutical Needs

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## Assessment.

- To review and scrutinise any matters relating to the planning, provision and operation of health services which affect the residents of Lincolnshire except for those under the remit of the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee.
- To consider the Annual Report of the Director of Public Health on the Health of the People in Lincolnshire, using the report to inform the Committee's work programme.
- To consider and respond to any consultations by any responsible NHS commissioner which constitute a substantial development or substantial variation in the provision of health services in Lincolnshire, using the powers set out in the relevant health overview and scrutiny regulations and referring to any guidance issued by the Secretary of State for Health. Where there is a disagreement between the Committee and the responsible NHS commissioner which cannot be resolved after reasonable practicable steps and the Committee believe that
  - (a) the proposed substantial variation or development would not be in the interests of the health service in Lincolnshire; or
  - (b) the arrangements put in place by the responsible NHS commissioner for consultation have not been adequate in relation to content or time allowed; or
  - (c) the reasons given for not consulting by the responsible NHS commissioner are not adequate;

the Committee may determine whether to refer the matter to the Secretary of State, in accordance with the relevant health overview and scrutiny regulations and any guidance issued by the Secretary of State for Health, taking account of any protocol agreed between the Committee and the responsible NHS commissioner.

- To consider and respond to any other health consultations, which affect the residents of Lincolnshire.
- To submit requests to the Overview and Scrutiny Management Board, for in-depth scrutiny reviews in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
- To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the relevant NHS organisation or other decision maker. Such reports and recommendations to include:-
  - (a) an explanation of the matter reviewed or scrutinised;
  - (b) summary of the evidence considered;

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- (c) a list of participants involved in the review or scrutiny; and
  - (d) an explanation of any recommendations on the matter reviewed or scrutinised.
- To make reports and recommendations to any relevant NHS body, to any relevant health service provider, the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above. Such reports and recommendations to include:-
  - (a) an explanation of the matter reviewed or scrutinised;
  - (b) summary of the evidence considered;
  - (c) a list of participants involved in the review or scrutiny; and
  - (d) an explanation of any recommendations on the matter reviewed or scrutinised
- To liaise with Healthwatch Lincolnshire in relation to the health care element of Healthwatch Lincolnshire's work programme and to consider referrals from Healthwatch Lincolnshire in relation to health care.

#### Appointment of Chairman and Vice Chairman

The Health Scrutiny Committee for Lincolnshire will appoint its own Chairman and Vice-Chairman.

#### Scheme for the Co-option of Voting members on the County Council's Health Scrutiny Committee for Lincolnshire

##### 1. Definitions

This scheme is made in accordance with Paragraphs 11 – 13 of Schedule A1 of the Local Government Act 2000.

The Council is Lincolnshire County Council.

The Health Scrutiny Committee for Lincolnshire is an overview and scrutiny committee appointed pursuant to Section 9FH of the Local Government Act 2000.

A Co-opted Member is a member of the Health Scrutiny Committee for Lincolnshire, who has been duly nominated and appointed by a district council in Lincolnshire in accordance with this scheme.

##### 2. Nomination and Appointment

The County Council will allow each district council in Lincolnshire to nominate a non-executive councillor, to serve as a member of the Council's Health Scrutiny Committee for Lincolnshire. Each district council may at any time

nominate a replacement member to serve in place of the nominated member.

3. Voting

The eight county councillors and seven co-opted district councillors on the Council's Health Scrutiny Committee for Lincolnshire will have full voting rights at meetings of the Health Scrutiny Committee for Lincolnshire.

4. Code of Conduct

Co-opted members, as district councillors, will be subject to the Member Code of Conduct.

5. Allowances

Co-opted members, as district councillors, will be entitled to allowances and expenses in accordance with the scheme adopted by the district council of which they are a member.

## **6.09 Highways and Transport Scrutiny Committee**

### Membership

The County Council will determine the number of members of the Council who will serve on the Highways and Transport Scrutiny Committee.

### Terms of Reference

The Highways and Transport Scrutiny Committee is authorised to undertake the following activities:-

- To review and scrutinise the following services and their outcomes:
  - Transport services, including public transport
  - Highway network management and highways asset management
  - New transport investments including highways improvements
- To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Committee.
- To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
- To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
- To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the

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above services.

- To submit requests to the Overview and Scrutiny Management Board for in-depth scrutiny reviews, in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
- To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.
- To consider and respond to any proposal from the Executive as part of the development of the policy framework.
- To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.

## **6.10 Scrutiny Panel A and Scrutiny Panel B**

Scrutiny Panel A and Scrutiny Panel B will undertake in-depth scrutiny reviews in accordance with the terms of reference and timetable determined for each review by the Overview and Scrutiny Management Board.

Scrutiny Panel A and Scrutiny Panel B will conduct each review in accordance with the following principles:

- Meeting of Scrutiny Panels should generally be held in public, with decisions on whether meetings should be public or private being considered as part of the review process.
- Scrutiny Panels should aim to collect a broad range of evidence on the particular review, interviewing interested parties, and engaging local communities, where this is feasible.
- Scrutiny Panels should focus on developing realistic recommendations for improvement in relation to the topic under review.
- Scrutiny Panels will submit their draft reports to the relevant Overview and Scrutiny Committee for consideration, approval and onward referral as appropriate.

## **6.11 Corporate Parenting Panel**

### Membership

The County Councillor membership of the Corporate Parenting Panel will be determined by the County Council. Five additional members may also be appointed to the Panel in the following categories:

- one Representative of the V4C the Children in Care Council
- one Lincolnshire Community Health Services NHS Trust representative
- one Lincolnshire Partnership NHS Foundation Trust representative
- two Foster Carers

### Chairman and Vice-Chairman

At its first meeting in each municipal year, the Corporate Parenting Panel will elect a Chairman and Vice-Chairman from the County Councillor membership of the Panel.

### Quorum

The quorum of the Corporate Parenting Panel will be three, with at least one of the county council Corporate Parenting Panel members in attendance.

### Replacement

Replacement members will be permitted on the Corporate Parenting Panel.

### Meetings

The Corporate Parenting Panel will meet in public up to six times a year and as otherwise required.

### Terms of Reference

The Corporate Parenting Panel is authorised to undertake the following activities:-

- Ensure that all councillors and Lincolnshire County Council Directorates are fulfilling their roles and responsibilities as corporate parents proactively. This will involve the Corporate Parenting Panel organising specific education and training events for all councillors to ensure they are equipped with the knowledge and skills to be corporate parents.
- Provide clear strategic and political direction in relation to corporate parenting.
- Investigate on behalf of all councillors ways in which the role of corporate parenting can be improved, using examples from other local authorities and countries.
- Ensure that councillors undertake their annual programme of visits to children's homes.
- Ensure that the needs of children and young people in public care and their carers are prioritised by councillors and officers.
- Receive quarterly reporting of key performance indicators relating to children and young people in public care.
- Receive regular and/or annual reports on the level and quality of

services to children and young people in public care from the Children's Services Directorate, other Directorates and organisations.

- Monitor the performance, quality and outcomes of the Council's services in relation to children and young people in public care and identify any areas for improvement.
- Engage with children and young people who are in public care or have left care by inviting them to act as advisers to the Corporate Parenting Panel.
- Listen to the views of children, young people and their carers and to involve them in the assessment and development of services.
- Champion the provision of Council based work placements and Apprenticeships for looked after young people.
- Promote achievement and acknowledge the aspirations of children and young people in public care by supporting celebration events.
- Meet with Ofsted inspectors where appropriate for their input into inspections.
- Participate as members of the adoption and fostering panels.
- Agree a work plan, reviewing progress, membership of the Panel and attainment of its role and terms of reference.
- Report back formally on these matters in writing to full Council at least annually and more frequently as the Corporate Parenting Panel considers necessary.

## **ARTICLE 7 – REGULATORY AND OTHER COMMITTEES AND BODIES OF THE COUNCIL**

### **7.01 Regulatory and Other Committees**

The Council will appoint the Committees set out in paragraphs 7.02 to 7.05 inclusive below to discharge the functions listed under each by reference to Part 3 of this Constitution and with the delegated powers shown.

- Each of the said Committees will conduct its business in accordance with the Council Procedure Rules and Access to Information Rules in Part 4 and will meet in public unless the nature of the business is such that the press and public must be excluded or the Committee determine that the press and public should be excluded in accordance with the Access to Information Procedure Rules.

Each of the Committees referred to shall be entitled to appoint such sub-Committees or panels or joint panels as each body considers appropriate to fulfil its functions.

Please see Annex A for composition.

### **7.02 Pensions Committee**

There will be a Pensions Committee having 11 members. 8 shall be Councillors representing the political balance of the Council overall in accordance with the terms of the Local Government and Housing Act 1989, together with three co-optees representing both the non County Council employers in the Fund and individual Fund participants.

All members of the Committee including co-opted members shall be entitled to vote.

#### **Functions:**

- Drawing upon appropriate professional advice, to set investment policies for the Fund, including the establishment and maintenance of a strategic benchmark for asset allocation, and approval of the Investment Strategy Statement.
- To review the performance of Border to Coast Pensions Partnership Limited and its sub-funds, legacy fund managers and associated professional service providers.



- To approve the annual Report and Statement of accounts of the fund.
- To consider any other matters relevant to the operation and management of the fund.
- As necessary and appropriate issue instructions to the Council's representative as shareholder of Border to Coast Pensions Partnership Limited on matters affecting the exercise of the Council's rights as shareholder in the company.
- To respond to any relevant consultations impacting upon the benefit provisions of the Local Government Pension Scheme.

In fulfilling its functions the Committee shall have regard to the advice of the Lincolnshire Local Pension Board established in accordance with the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 and shall receive and consider recommendations from the Border to Coast Pensions Partnership Joint Committee.

### **7.03 Planning and Regulation Committee**

There will be a Planning and Regulation Committee. The Committee shall comprise 15 Councillors representing the political balance of the Council overall in accordance with the terms of the Local Government and Housing Act 1989.

#### **Functions:**

- To exercise those functions of the Council which cannot be exercised by the Executive and are not reserved to the Council or delegated to any other Committee of Council in this Constitution and those functions allocated to the Committee in Part 3 of this Constitution including to:
  - exercise powers in relation to Traffic Regulation Orders and the management of traffic within Lincolnshire;
  - determine provision of pedestrian crossings that do not meet policy criteria;
  - deal with Planning development control matters;
  - implement the County Council's Speed Limit Policy;
  - give full consideration to the Council's overall environmental policies;

- exercise various powers and duties in relation to the management, maintenance and enforcement of the public rights of way network and the continuous review of the Definitive Map and Statement of Public Rights of Way.

#### **7.03.01 Definitive Map and Statement of Public Rights of Way Sub-Committee**

There will be a Definitive Map and Statement of Public Rights of Way Sub-Committee. The Sub-Committee shall comprise seven Councillors who shall represent the political balance of the Council overall in accordance with the terms of the Local Government and Housing Act 1989.

##### **Functions:**

- To consider appeals, by applicants who have applied to the County Council to modify the Definitive Rights of Way Map and Statement for Public Rights of Way, in relation to the priority order in which officers will deal with such applications for Orders.

#### **7.04 Appointments Committee**

There will be an Appointments Committee. The Committee shall comprise 12 Councillors representing the political balance of the Council overall in accordance with the terms of the Local Government and Housing Act 1989.

At least one member of the Appointments Committee shall be an Executive Councillor.

##### **Functions:**

- To discharge on behalf of the Council the function of the appointment of
  - the post for the time being designated as the County Council's Head of Paid Service (subject to approval by the Council) and
  - Chief Officers as defined in Article 9

in accordance with provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 and thereby to act as appointor for the purposes of the said Regulations and the Officer Employment Procedure Rules at Part 4 of this Constitution in relation to such appointments.

- To suspend the person designated as the County Council's Head of Paid Service Monitoring Officer and Section 151 Officer whilst an investigation takes place into allegations against them.

- To discharge on behalf of the Council the function of taking disciplinary action against or (subject to approval by the Council) the dismissal of the person designated as the County Council's Head of Paid Service, the
- Section 151 Officer and the Monitoring Officer in accordance with provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 and thereby to act as dismissor for the purposes of the said Regulations and the Officer Employment Procedure Rules at Part 4 of this Constitution in relation to such dismissals.
- To fulfil the function of constituting and convening the Statutory Officers' Employment Advisory Panel in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 and the Officer Employment Procedure Rules at Part 4 of this Constitution to advise the Council on any proposal to dismiss the person designated as the County Council's Head of Paid Service, the Section 151 Officer or the Monitoring Officer.

#### **7.04.01 Pay Policy Sub-Committee**

There shall be a Pay Policy Sub-Committee of the Appointments Committee. The Sub-Committee shall comprise of seven Councillors from the Appointments Committee representing the political balance of the Council overall in accordance with the terms of the Local Government and Housing Act 1989.

##### **Functions:**

- To undertake an annual review of Chief Officers' salaries
- To exercise oversight of Pay Policy
- To recommend the annual Pay Policy Statement and any amendments to Council

#### **7.05 The Members Appeal Hearing Panel**

An employee dismissed from their employment with the Council has a right of appeal against that decision. Appeals against dismissal except those relating to dismissals during an employee's probationary period and dismissals of the person designated as Head of Paid Service, Statutory Officers and Chief Officers as defined in Article 9 shall be heard by Elected Members. Full details of the procedure are available in the Appeals Policy.

The Panel will consist of a Panel of three Elected Members, one of whom will chair the meeting. The Group Leaders will nominate Members to be eligible to sit on Appeals Panels. Any Member nominated will receive training prior to sitting as a Member of the Panel. There is no requirement for training to be provided following an election unless a member nominated has not received training previously. The Panel will reflect the political balance of the Council whenever possible. No Member of the Executive can be nominated to sit on a Panel. Democratic Services shall maintain a list of Members nominated.

Democratic Services shall be responsible for making the necessary administrative arrangements for the appeals.

## **7.06 Audit Committee**

There will be an Audit Committee consisting of nine members. Seven of the members will be Non-Executive Councillors and reflect the political balance overall. Two members shall be independent people (non-voting members) who are not a Councillor or Officer of the Council; or a former Officer of the Council if their departure was in the last five years.

### **Role:**

To fulfil the role of an Audit Committee in respect of the work of the Council. Setting out the Committees position in the governance structure of the Council.

- The Audit Committee is a key component of Lincolnshire County Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- The purpose of the Audit Committee is to provide independent assurance to members of the adequacy of the risk management framework and the internal control environment. It provides independent review of Lincolnshire County Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

Functions:

### **Governance, Risk and Control**

- To maintain an overview of the Council's Constitution.
- To review any issues referred to it by the Chief Executive, Director or any Council body.

- To monitor the effective development and operation of risk management in the Council.
- To monitor progress in addressing risk-related issues reported to the committee.
- To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- To monitor the counter-fraud strategy, actions and resources.
- To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
- To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
- To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- To consider the Council's compliance with its own and other published standards and controls.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To review the governance and assurance arrangements for significant partnerships or collaborations.

### **Internal Audit**

- Approve the internal audit charter.
- To review proposals made in relation to the appointment of external providers on internal audit services and to make recommendations.
- To consider the Head of Internal Audit's annual report and opinion.
  - a. The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.
  - b. The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
- To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:-
  - a. Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - b. Regular reports on the results of the Quality Assurance and Improvement Programme.
  - c. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
- To consider summaries of specific internal audit reports of significance or as requested.
- To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- To provide free and unfettered access to the audit committee chair for the Head of Internal Audit, including the opportunity for a private meeting with the committee.
- To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Head of Internal Audit. To approve and periodically review safeguards to limit such impairments.
- To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- To support the development of effective communication with the Head of Internal Audit.

## **External Audit**

- To support the independence of external audit through consideration of the external auditors annual assessment of its independence and review any issues raised by the PSAA or the authority's auditor panel as appropriate.
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.

- To liaise with the appropriate body over the appointment of the Council's external auditor.
- To commission work from internal and external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial Reporting**

- To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- Duty to approve the authority's statement of accounts, income and expenditure and balance sheet.

### **Standards**

- Promoting and maintaining high ethical standards by Councillors and non-elected members.
- Assisting the Councillors and added members to observe the Members' Code of Conduct.
- Advising the Council on the adoption or revision of the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct.
- Advising, training or arranging to train Councillors and added members on matters relating to the Members' Code of Conduct.
- Determining complaints of breaches of the Code of Conduct for Members referred for hearing by the Monitoring Officer.

### **Accountability Arrangements**

- To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- To publish an annual report on the work of the committee.

## **7.07 Health and Wellbeing Board**

There will be a Health and Wellbeing Board. The Board will comprise:

The Executive Councillor for NHS Liaison, Community Engagement  
The Executive Councillor for Adult Care, Health and Children's Services  
The Executive Councillor for Culture and Emergency Services  
Five further County Councillors  
The Director of Public Health  
The Executive Director - Children's Services  
The Executive Director - Adult Care and Community Wellbeing

A designated representative from each clinical commissioning group in Lincolnshire

A designated representative from the NHS Commissioning Board

One designated District Council representative

A designated representative of Healthwatch

The Police and Crime Commissioner for Lincolnshire

The Chairman of the Lincolnshire Coordination Board

### **Functions**

- To encourage persons who arrange for the provision of any health and social care services in the area to work in an integrated manner
- To provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging joint commissioning
- To prepare and publish a Joint Strategic Needs Assessment
- To prepare and publish a Joint Health and Wellbeing Strategy

### **Quorum**

One third of the membership of the Board to include a representative from the clinical commissioning groups, a Lincolnshire County Council Executive Councillor and either the Chairman or the Vice-Chairman.

### **Frequency of Meetings**

The Board shall meet no less than four times each year including an AGM.

### **Chairman and Vice-Chairman**

The Board shall elect its Chairman and Vice Chairman at its AGM.

### **Voting**

Each member of the Board shall have one vote and decisions will be made by a simple majority. The Chairman will have a casting vote.



### Substitutes

Each member of the Board can nominate a named substitute. Two working days advance notice that a substitute member can attend a meeting of the Board will be given to the Democratic Services Manager. Substitute members will have the same powers as Board members.

## **7.08 Bourne Town Hall Trust Management Committee**

There will be a Bourne Town Hall Trust Management Committee. The Committee will comprise of:-

- a) a minimum of 5 Councillors not being Councillors elected by the residents of Bourne town ("the Voting Members") as appointed by the Council. The five Councillors appointed by the Council are not required to reflect the political balance of the Council as set out in the Local Government and Housing Act 1989; and
- b) such members of staff and supporting officers as selected and considered reasonable and appropriate by the Council from time to time, having regard to all relevant circumstances ("the Supporting Members").

The Supporting Members shall not have voting rights and as such, shall not be able to vote on any decision of the Committee.

### Functions

The Bourne Town Hall Trust Management Committee shall have the authority to undertake the following activities ("Delegated Activities") should they be required on behalf of the Council as trustee of the Charity:

- a) Monitor the progress of the steering group established to explore options for the future use of the Hall.
- b) Determine the ultimate viability of any proposals presented by the steering group or any other body in relation to the future use of the Hall and any potential transfer of ownership of the building.
- c) Oversee the transfer of the Hall to another organisation or entity.
- d) Determine whether or not the options for the transfer of the Hall to another charity or charitable trust are viable.
- e) After all options for the transfer of the Hall to another charity or charitable trust have been reasonably considered and exhausted, to determine whether or not selling the Hall is the only viable option remaining.

- f) Oversee the sale of the Hall and make any necessary arrangements for the sale proceeds to be used for the benefit of the residents of Bourne, including corresponding with the Charity Commission.
- g) Continue to take specialist legal advice as may reasonably be required.
- h) The Committee may refer to the Council any matter falling within the Delegated Activities for recommendation or decision as it sees fit.

#### Quorum

The Quorum of the Committee shall be three Voting Members in person or by proxy.

#### Frequency and Notice of Meetings

The Committee shall hold such meetings as required from time to time. Notice of such meetings must be given at least 14 days in advance and must specify the date, time and place of the meeting. Notice may be given electronically and the Voting Members may agree to accept a lesser period of notice by way of simple majority.

#### Chairman and Vice-Chairman

A Chairman and Vice Chairman") shall be selected by the Committee at the beginning of the first meeting of the Committee by way of simple majority.

#### Voting

Each Member of the Committee shall have one vote and decisions will be made by a simple majority. The Chairman (or in the Chairman's absence the Vice Chairman) shall have a casting vote.

### **7.09 Statutory Officers' Employment Advisory Panel**

There shall be a Statutory Officers' Employment Advisory Panel established under section 102(4) of the Local Government Act 1972.

The Panel shall consist of not less than two Relevant Independent Persons as defined in the Officer Employment Procedure Rules in Part 4 of the Constitution ("the Rules").

The Panel shall be constituted and convened if and when required to advise the Council in relation to a proposal to approve the dismissal of the County Council's Head of Paid Service, the Chief Finance Officer or the Monitoring Officer each as defined in the Rules.

The Panel shall fulfil the function conferred on it by the Rules and shall be constituted and convened in accordance with the Rules.

## ARTICLE 8 – JOINT ARRANGEMENTS

### 8.01 Arrangements to promote well-being

The Executive 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.

The Executive will at all times in its decision making and deliberations have regard to the purpose of this Constitution to enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations and pursue opportunities for joint working with other organisations.

### 8.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executive 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 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 Councillors to a joint Committee and those Councillors need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint Councillors to a joint Committee from outside the Executive in the following circumstances:
  - 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 Councillor for an electoral division, which is wholly or partly contained within the area.

- 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 Councillor 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.

- (e) Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **8.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a joint Committee are Executive Councillors 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 Councillors who are not on the Executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

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

- (a) The Council may delegate non-Executive functions to another local authority or, in certain circumstances, 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.

### **8.05 Contracting out**

The Executive 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 9 – OFFICERS

### 9.01 Engagement of Staff

#### (a) **General**

The Council through its Head of Paid Service may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

The recruitment selection and dismissal of employees will comply with the Officer Employment Procedure Rules, Officer Employment Protocol and Councillor Role in Part 4 of this Constitution.

The Council will from time to time determine and publicise a description of the overall departmental structure of the Council showing the management structure. This is set out at Part 7 of this Constitution.

#### (b) **Chief Officers.**

All Chief Officers will:

- contribute to the corporate management of the County Council;
- represent and promote the County Council as a Local Authority concerned to secure high quality services in line with the Council's Business Plan for the people of Lincolnshire;
- develop partnership working.

The persons engaged to fill the following posts will be designated Chief Officers:

<b><i>Post</i></b>	<b><i>Functions and areas of responsibility</i></b>
Chief Executive	<ul style="list-style-type: none"> <li>• Overall corporate management</li> <li>• Overall operational responsibility (including overall management responsibility for all Officers)</li> <li>• Strategic development and performance of the organisation</li> <li>• Provision of professional advice to all parties in the decision making process</li> <li>• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions</li> <li>• Representing the Council on partnership and external bodies (as required by statute or the Council)</li> <li>• Corporate communications</li> <li>• Community engagement</li> </ul>
Executive Director - Children's Services	<ul style="list-style-type: none"> <li>• Education</li> <li>• Children's Safeguarding</li> <li>• Early years</li> <li>• Children with Disabilities</li> <li>• Families</li> <li>• Support for Children with SEN</li> <li>• School Support Services</li> <li>• Regulated Services (Children Looked After, secure unit, residential homes, respite homes. adoption and fostering)</li> <li>• Youth Offending Services</li> </ul>



Executive Director - Place	<ul style="list-style-type: none"> <li>• Economy</li> <li>• Lead Local Flood Authority</li> <li>• Environmental Protection and Wellbeing</li> <li>• Transport, Highways &amp; Traffic Management</li> <li>• Waste Management</li> <li>• Spatial Planning</li> <li>• Community Development</li> <li>• Libraries and Heritage</li> </ul>
Executive Director - Resources	<ul style="list-style-type: none"> <li>• Business Support</li> <li>• Corporate Audit &amp; Risk Assurance</li> <li>• Strategic Finance</li> <li>• Pensions and Treasury</li> <li>• Human Resources</li> <li>• Legal and Democratic Services</li> <li>• Information Governance</li> <li>• Senior Information Risk Owner</li> </ul>
Executive Director - Adult Care and Community Wellbeing	<ul style="list-style-type: none"> <li>• Support to Hospitals</li> <li>• Independent Living</li> <li>• Learning Disabilities</li> <li>• Mental Health</li> <li>• Carers</li> <li>• Adults Safeguarding</li> <li>• Older People/Physical Disability</li> <li>• Health and Wellbeing</li> </ul>
Executive Director - Commercial	<ul style="list-style-type: none"> <li>• Commercial services</li> <li>• Information Management and Technology</li> <li>• Corporate systems</li> <li>• Performance monitoring and reporting</li> <li>• Property</li> <li>• Procurement and contract management</li> </ul>

(c) **Statutory Officers** - Head of Paid Service, Monitoring Officer and Section 151 Officer

The Council will designate the following posts as Statutory Officers:

<b><i>Post</i></b>	<b><i>Designation</i></b>
Chief Executive	Head of Paid Service under section 4 of the Local Government and Housing Act 1989  Director of Children's Services under section 18 of the Children Act 2004
Chief Legal Officer	Monitoring Officer under section 5 of the Local Government and Housing Act 1989
Executive Director - Resources	Chief Finance Officer with responsibility for the administration of the financial affairs of the Council under section 151 of the Local Government Act 1972
Executive Director - Children's Services	
Executive Director - Adult Care and Community Wellbeing	Director of Adult Social Services under section 6 of the Local Authorities and Social Services Act 1970
Executive Director - Place	Traffic Manager under section 17 of the Traffic Management Act 2004
Head of Democratic Services	Scrutiny Officer under section 9FB of the Local Government Act 2000

The statutory post of Director of Public Health under Section 73A of the National Health Service Act 2006 shall be fulfilled by the Director of Public Health, being a post line managed by the Executive Director - Adult Care and Community Wellbeing with direct responsibility to the Head of Paid Service in relation to fulfilment of the statutory role of Director of Public Health.

The Head of Paid Service, Monitoring Officer and Chief Finance Officer have functions set out in 9.02 – 9.04 below.

**(d) Structure**

The Council will publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution.

## **9.02 Functions of the Head of Paid Service**

### **(a) Discharge of functions by the Council**

The Head of Paid Service will report to full 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 functions and the organisation of Officers.

### **(b) Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of s151 Officer, if a qualified accountant.

## **9.03 Functions of the Monitoring Officer**

### **(a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, Officers and the public.

### **(b) Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or 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 until the report has been considered.

### **(c) Standards**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit Committee. The Monitoring Officer will process complaints about breaches of the code of conduct in accordance with the local arrangements. The Monitoring Officer will consider applications in relating to the granting of dispensations in relation to disclosable pecuniary interests

### **(d) Proper Officer for access to information**

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

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(e) **Advising whether Executive decisions are within the Budget and Policy Framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

(f) **Providing advice**

The Monitoring Officer will 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.

(g) **Restrictions on posts**

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

**9.04 Functions of the Chief Finance Officer**

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor if he or 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.

(b) **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council and ensure maintenance of an efficient and effective internal audit function.

(c) **Contributing to corporate management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Chief Finance Officer will 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 support and advise Councillors and Officers in their respective roles.

(e) **Give financial information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**9.05 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed in accordance with the provisions of the Local Government and Housing Act 1989 and the Local Government Finance Act 1988.

**9.06 Other Statutory Posts**

The Council is also required to appoint a Statutory Scrutiny Officer. This enables the Council to comply with its obligation under Section 9FB of the Local Government Act 2000 as inserted by Section 21 of the Localism Act 2011.

The Council is also required under Section 17 of the Traffic Management Act 2004 to appoint a Traffic Manager.

## ARTICLE 10 – DECISION MAKING

### 10.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 10.02 Principles of decision making

In order that decision making is efficient, transparent and accountable, all decisions of the Council (whether taken by the full Council, the Executive, Committees, Councillors or Officers) will be based on the following principles:

- proportionality (ie: the action must be proportionate to the desired outcome);
- due consultation (including professional advice from Officers when appropriate or necessary);
- respect for human rights;
- a presumption in favour of openness;
- clarity of aims and desired outcomes.

In addition, there will be effective access for the public to both the Council's decision making process and to its decision makers. To ensure the Council's arrangements for decision making will mean that:

- it is publicly known who is responsible for decisions;
- it is publicly known as soon as practicable what decisions the Council is planning to take;
- the public know how they can have an input into decisions, and at what point in the process, in order to best influence them;
- the public have access, whenever possible, to the information on which decisions are based;
- the public know what decisions have been taken and the reasons for them;
- significant decisions should not come as a surprise to those whom they affect;
- prior to taking decisions, Councillors and non-elected members will have full advice and recommendations from the appropriate professional experts within the County Council. It is improper for Councillors and non-elected members to seek to influence Officer recommendations by subjecting Officers to undue pressure.

Further guidance on decision making by the Executive is given in the Executive Procedure Rules in Part 4 of this Constitution. Further guidance on Officer Decision making is given in the Officer Delegation section of the “Responsibility for Functions”, Part 3 of this Constitution.

Key decisions (i.e: those decisions which have significant effects on the income and/or expenditure of the Council, and/or on the community (or parts of the community) served by the Council), will need to be particularly identified and consulted on within clear timescales. Such key decisions may be delegated to various parts of the Council (including Committees and Officers). Even so, the principles and guidelines set out above would still apply.

### **10.03 Types of decision**

#### **(a) Decisions reserved to full Council**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

#### **(b) Key decisions**

(i) A Key decision, as set out in ‘The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012’ is a decision of the Executive which is likely:

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the area of the local authority.

(ii) Without prejudice to the generality of the statutory definition but subject always to paragraph (iii) below the following decisions shall be treated as Key Decisions for the purposes of this Constitution

- a decision which is likely to result in expenditure of £500k and for the purposes of the statutory definition of a key decision expenditure below the said figure of £500k shall not be taken to be significant
- a decision which will have a material effect on Council services such as where
  - an existing service or access to an existing service will be

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substantially expanded or reduced or will cease altogether or a new service is proposed

- a service which is currently provided in-house by the Council may be outsourced
  - a partnership will be entered into with a third party which involves an element of risk share or transfer
  - a decision that involves any new policy or strategy or which forms part of the development of or a change to the Policy Framework or the Budget
  - a decision to exercise the Council's power to trade or charge for discretionary services
  - a decision to apply for funding from any external body which if successful would require Council match funding of £250,000 or more or entail a revenue commitment of at least £250,000 in total
  - consideration of any matter which will result in a recommendation to full Council
- (iii) The following shall not be Key Decisions notwithstanding that they may fall within paragraph (b)(i) above
- routine money market transactions and
  - in relation to the letting of contracts, the key decision is the proposal to let the contract and subsequent decisions in relation to any procurement process from inviting tenders up to an including awarding the contract to a particular contractor are not Key Decisions;

#### **10.04 Decision making by the full Council**

Subject to Article 11.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **10.05 Decision making by the Executive**

Subject to Article 11.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.



#### **10.06 Role of Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **10.07 Decision making by other Committees and Sub-Committees established by the Council**

Other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### **10.08 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 11 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **11.01 Financial management**

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

### **11.02 Contracts**

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

### **11.03 Legal proceedings**

The Chief Legal Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Legal Officer considers that such action is necessary to protect the Council's interests.

### **11.04 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 Chief Legal Officer 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.

### **11.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Council, or of any part of it, 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 Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised by him/her.

**ANNEX A****COMPOSITION OF COUNTY COUNCIL COMMITTEES AND SUB-COMMITTEES**

<b>Committees</b>	<b>Composition</b>
Overview and Scrutiny Management Board	11 Councillors (+ 3 added non-elected members for education matters) Politically balanced
Adults and Community Wellbeing Scrutiny Committee	11 Councillors – Politically balanced
Children and Young People Scrutiny Committee	11 Councillors (+ 3 added non-elected members for education matters) Politically balanced
Environment and Economy Scrutiny Committee	11 Councillors – Politically balanced
Flood and Water Management Scrutiny Committee	11 Councillors - Politically balanced (+7 other voting members each appointed by a District Council)
Health Scrutiny Committee for Lincolnshire	8 Councillors – Politically balanced (+ 7 other voting members each appointed by a District Council and a member of Healthwatch Lincolnshire (non-voting))
Highways and Transport Scrutiny Committee	11 Councillors – Politically balanced
Public Protection and Communities Scrutiny Committee	11 Councillors – Politically balanced
Audit Committee	7 Councillors – Politically balanced (+ 2 independent person who is not a Councillor or an officer of the Council)
Pensions Committee	8 Councillors – Politically balanced (+ 3 non-elected members)
Planning and Regulation Committee	15 Councillors – Politically balanced
Definitive Map and Statement of Public Rights of Way Sub-Committee	7 Councillors – Politically balanced
Appointments Committee	12 Councillors - Politically balanced
Pay Policy Sub-Committee	7 Councillors – Politically balanced
Health and Wellbeing Board	See Article 7.06

Bourne Town Hall Trust Management Committee	See Article 7.07
Relevant Officers Dismissals Advisory Panel	See Article 7.08

### **COMPOSITION OF OTHER GROUPS**

Corporate Parenting Panel	7 Councillors – Politically inclusive (+ 5 non-voting members as set out in Article 6.11)
Scrutiny Panel A	2 Councillors as Chairman and Vice-Chairman  A maximum of 6 additional members to be appointed by the Overview and Scrutiny Management Board
Scrutiny Panel B	2 Councillors as Chairman and Vice-Chairman  A maximum of 6 additional members to be appointed by the Overview and Scrutiny Management Board

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## **Part 3**

# **RESPONSIBILITY FOR FUNCTIONS**

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## RESPONSIBILITY FOR FUNCTIONS

### INTRODUCTION

Section 13 of the Local Government Act 2000 provides for determining which functions of a local authority are the responsibilities of the Executive under Executive arrangements. All functions of a local authority must be the responsibility of the Executive unless specified otherwise in Regulations or there are express provisions to the contrary in other legislation.

In accordance with the requirements of the regulations Part 3 of this Constitution sets out the extent to which the Council's functions other than overview and scrutiny functions

- Are the responsibility of the full Council
- Are the responsibility of Committees of the Council
- Are the responsibility of the Executive
- Have been delegated to Officers
- Are the subject of joint arrangements

The allocation of responsibilities reflects the Secretary of State's approach to the division of functions between the Executive and the Council, namely

- Determination of the policy framework and budget and other constitutional and quasi legislative functions are to be the responsibility of the full Council
- Functions which involve determining an application from a person for a licence approval consent permission or registration (including particular planning permissions and consents) or direct regulation of a person (except in cases where there is only limited discretion in the discharge of the function) together with any related enforcement actions (including prosecutions) are not to be the responsibility of the Executive and
- All other functions not being overview and scrutiny functions are to be the responsibility of the Executive.

Within this framework all political groups on the County Council have agreed that it is the role of Councillors to concentrate upon broad strategy and policy decisions and that it is essential that managers have clear managerial control and authority to implement those decisions.

It is part of the role of Councillors to raise concerns, particularly those of constituents, and bring to the attention of Chief Officers matters of concern on any element of a service. Councillors agree that their involvement in day to day management beyond this is unlikely to produce the most effective services. In exercising their delegated powers, Chief Officers will consider the concerns and comments of Councillors whilst recognising their responsibility to manage service delivery in accordance with the Council's policy framework.



**TABLE 1**

**MATTERS WHICH IT IS THE RESPONSIBILITY OF THE FULL COUNCIL TO DISCHARGE**

<b>Function</b>	
<b>1.</b>	Adopting and Changing the Constitution.
<b>2.</b>	Approving or adopting the Budget and the Policy Framework.
<b>3.</b>	Changing the Budget or the Policy Framework except those changes to the Policy Framework which are necessary to ensure compliance with the law, ministerial direction or government guidance which may be made by the Executive, a Committee of the Executive, an individual Executive Councillor or an Officer in accordance with rule 8 of the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.
<b>4.</b>	Subject to the urgency procedure contained in Rule 16 of the Access to Information Procedure Rules in Part 4 of this Constitution, making any Executive decisions about any matter in the discharge of an Executive function where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/not wholly in accordance with, the Budget.
<b>5.</b>	Electing and removing the Leader of the Council.
<b>6.</b>	Agreeing and/or amending the terms of reference for Committees, Sub Committees Groups and Panels, deciding on their composition and making appointments to them including appointment of Chairmen and Vice Chairmen but excluding the Chairman and Vice Chairman of Health Scrutiny Committee for Lincolnshire, the Health and Wellbeing Board and the Bourne Town Hall Trust Management Committee who will be appointed by that Committee or Board.
<b>7.</b>	Appointing representatives of the Council to outside bodies unless the appointment is an Executive function under this Part 3 of this Constitution or has been delegated by the Council.
<b>8.</b>	Appointing Special Interest Councillors.
<b>9.</b>	Adopting a Scheme of Members Allowances.
<b>10.</b>	Changing the name of the area.
<b>11.</b>	Confirming the appointment of the Head of Paid Service.
<b>12.</b>	Approving the dismissal of the Head of Paid Service, Section 151 Officer and Monitoring Officer.
<b>13.</b>	Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills in Parliament.

<b>14.</b>	Adopting or changing the Members' Code of Conduct, subject to advice from the Audit Committee.
<b>15.</b>	Appointing the Returning Officer for County Council elections.

<b>Function</b>	
<b>16.</b>	Submission of proposals to the Secretary of State for an order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
<b>17.</b>	Power to confer title of honorary alderman.
<b>18.</b>	Functions relating to sea fisheries.
<b>19.</b>	Power to make standing orders.
<b>20.</b>	Duty to make arrangements for proper administration of financial affairs, etc.
<b>21.</b>	Power to appoint Officers for particular purposes (appointment of "Proper Officers").
<b>22.</b>	Duty to designate Officer as the head of authority's paid service, Section 151 Officer, Monitoring Officer and to provide staff to them.
<b>23.</b>	Consideration of a Report from a Local Commissioner under Section 31 or a further Report under Section 31A of the Local Government Act 1974 and of actions taken or proposed to be taken in response where the findings contained in the Report relate to the functions of the full Council or the Report is otherwise referred to the full Council by the Monitoring Officer.
<b>24.</b>	All other matters which, by law, must be reserved to Council.

**TABLE 2**

**MATTERS WHICH ARE THE RESPONSIBILITY OF THE**

**PLANNING AND REGULATION COMMITTEE**

<b>Function</b>		<b>Provision of Act or Statutory Instrument</b>
<b>A. Functions relating to town and country planning and development control</b>		
<b>1.</b>	Power to determine applications for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8).
<b>2.</b>	Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
<b>3.</b>	Power to grant planning permission for development already carried out.	Section 73A [13] of the Town and Country Planning Act 1990.
<b>4.</b>	Power to decline to determine applications for planning permission.	Section 70A of the Town and Country Planning Act 1990[14].
<b>5.</b>	Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made there under.
<b>6.</b>	Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)[15].
<b>7.</b>	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
<b>8.</b>	Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
<b>9.</b>	Power to issue a certificate of existing or proposed lawful use or development.	Section 191(4) and 192(2) of the Town and Country Planning Act 1990[16].

Function	Provision of Act or Statutory Instrument
<b>10.</b> Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
<b>11.</b> Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
<b>12.</b> Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990[19].
<b>13.</b> Power to issue or withdraw an enforcement notice and to waive or relax any requirement of the notice.	Section 172 of the Town and Country Planning Act 1990[20].
<b>14.</b> Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990[21].
<b>15.</b> Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c.10).
<b>16.</b> Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act.
<b>17.</b> Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
<b>18.</b> Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
<b>19.</b> Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).
<b>20.</b> Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).

Function	Provision of Act or Statutory Instrument
<b>B. Licensing and registration functions (insofar as not covered by any other paragraph in this table)</b>	
1. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c.66)[33].
2. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c.52)[34].
3. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
4. Power to enforce the various provisions of the Regulatory Reform (Fire Safety) Order 2005.	The Regulatory Reform (Fire Safety) Order 2005 (No. 1541).
5. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) act 1925 (c.38[39].
6. Power to licence the employment of children.	Part II of the Children and Young Persons Act 1933 (c.33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c.37).
7. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c.76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)[41].
<p>8. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p>(a) an exchange of lands effected by an order under Section 19(3) of, or Paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67); or</p> <p>(b) an order under Section 147 of the Inclosure Act 1845 (c. 8 &amp; 9 Vict. C 118).</p>	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
<b>9.</b> Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)[42].
<b>10.</b> Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c.22).
<b>11.</b> Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
<b>12.</b> Power to licence the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
<b>13.</b> Power to licence collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
<b>14.</b> Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
<b>15.</b> Power to permit deposit of builder's skip on highway.	Section 139 of the Highways act 1980 (c.66).
<b>16.</b> Power to licence planting, retention and maintenance of trees, etc, in part of highway.	Section 142 of the Highways act 1980.
<b>17.</b> Power to authorise erection of stiles, etc, on footpaths or bridleways.	Section 147 of the Highways Act 1980.
<b>18.</b> Power to licence works in relation to buildings, etc, which obstruct the highway.	Section 169 of the Highways Act 1980.
<b>19.</b> Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
<b>20.</b> Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways act 1980.
<b>21.</b> Power to restrict the placing of rails, beams, etc, over highways.	Section 178 of the Highways Act 1980.

Function		Provision of Act or Statutory Instrument
22.	Power to consent to construction of cellars, etc, under streets.	Section 179 of the Highways Act 1980[44].
23.	Power to consent to the making of openings into cellars, etc, under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
24.	Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35).
<b>C. Miscellaneous functions</b>		
<i>Functions relating to public rights of way</i>		
1.	Power to create footpath or bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980 (c.66).
2.	Power to make an order to create footpath, bridleway or restricted byway.	Section 26 of the Highways Act 1980.
3.	Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.
4.	Power to make an application to the Magistrates' court to authorise the stopping up or diversion of a highway.	Section 116 of the Highways Act 1980
5.	Power to make an Order to extinguish footpaths, bridleways or restricted byways.	Section 118 of the Highways Act 1980.
6.	Power to make a rail crossing extinguishment order.	Section 118A of the Highways act 1980.
7.	Power to make a special extinguishments order for the purposes of crime prevention.	Section 118B of the Highways Act 1980.
8.	Power to make an Order to divert footpaths, bridleways or restricted byways.	Section 119 of the Highways Act 1980.
9.	Power to make a rail crossing diversion order for the purposes of crime prevention.	Section 119A of the Highways Act 1980.

<b>10.</b>	Power to make a special diversion order.	Section 119B of the Highways Act 1980.
<b>11.</b>	Power to apply for an Order for an applicant to enter into an agreement to defray costs in relation to rail crossing diversion orders.	Section 119A(8) of the Highways Act 1980.
<b>12.</b>	Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
<b>13.</b>	Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.
<b>14.</b>	Power to apply for variation of order under Section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.
<b>15.</b>	Power to remove items painted, inscribed or affixed to the surface of a tree, structure or works on or in the highway.	Section 132 of the Highways Act 1980.
<b>16.</b>	Duty to enforce provisions in relation to ploughing in connection with a footpath or bridleway.	Section 134(6) of the Highways Act 1980.
<b>17.</b>	Power to grant an extension to the relevant period in relation to ploughing in connection with a footpath or bridleway.	Section 134(8) of the Highways Act 1980.
<b>18.</b>	Power to authorise and make a Diversion Order allowing for the temporary disturbance of a footpath, bridleway or restricted byway.	Section 135 of the Highways Act 1980.
<b>19.</b>	Duty to enforce the provisions in relation to interference by crops.	Section 137A(5) of the Highways Act 1980.
<b>20.</b>	Power to remove structures from highways and to recover costs from the person having control or possession of the structure.	Section 143 of the Highways Act 1980.
<b>21.</b>	Power to enforce minimum widths for gates across highways.	Section 145 of the Highways Act 1980.



<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
<b>22.</b> Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
<b>23.</b> Power to require the removal of overhanging trees or shrubs.	Section 154 of the Highways Act 1980.
<b>24.</b> Power to require the removal of barbed wire.	Section 164 of the Highways Act 1980
<b>25.</b> Power to require information as to ownership of land.	Section 297 of the Highways Act 1980
<b>26.</b> Right to use appliances and vehicles on footpaths, bridleways and restricted byways.	Section 300 of the Highways Act 1980
<b>27.</b> Power to carry out works in relation to interference with highways.	Schedule 12A of the Highways Act 1980.
<b>28.</b> Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981 (c.67).
<b>29.</b> Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c.69).
<b>30.</b> Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.
<b>31.</b> Duty to keep register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.
<b>32.</b> Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.
<b>33.</b> Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984 (c.38).
<b>34.</b> Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c.68).

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
<b>35.</b> Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990.
<b>36.</b> Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
<b>37.</b> Temporary stopping up of footpaths and bridleways for mineral workings.	Section 261 of the Town and Country Planning Act 1990.
<b>38.</b> Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000 (c.37).
<b>39.</b> Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.
<b>40.</b> Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).
<b>41.</b> Power to make bylaws as respects access to land.	Section 17 of the Countryside and Rights of Way Act 2000.
<b>42.</b> Power to erect and maintain notices as respects access to land.	Section 19 of the Countryside and Rights of Way Act 2000.
<b>43.</b> Power to apply to the court for an Order to remove an obstruction to access.	Section 39 of the Countryside and Rights of Way Act 2000.
<b>44.</b> Power to make observations and lodge formal objections to District Councils in respect of Public Path Orders proposed to be made by them.	Sections 26, 118, 119 of the Highways Act 1980 or Section 257 of the Town and Country Planning Act 1990.

**The above functions cannot be exercised by the Executive**

**The above is subject to the delegation of specific powers to the Chief Executive and Chief Officers. Those with delegated powers may always refer the matter back to the Committee if considered appropriate**

**TABLE 3**

**MATTERS WHICH ARE THE RESPONSIBILITY OF VARIOUS COMMITTEES  
TO DISCHARGE**

<b>1.</b>	Functions relating to Local Government pensions etc (except for pensions benefits).	<i>Pensions Committee</i>
<b>2.</b>	The determination of an appeal against a decision made by or on behalf of the authority.	<i>Appeals Panel</i>
<b>3.</b>	The conducting of service reviews in accordance with identified Scrutiny Work Programmes.	<i>Overview and Scrutiny Committees</i>
<b>4.</b>	Functions relating to health and wellbeing as set out in the Health and Social Care Act 2012.	<i>Health and Wellbeing Board</i>

**The above is subject to the delegation of specific powers to the Chief Executive and Chief Officers. Those with delegated powers may always refer the matter back to the Committee if considered appropriate.**

**TABLE 4**

**COUNTY COUNCIL FUNCTIONS WHICH ARE THE RESPONSIBILITY OF THE EXECUTIVE**

- (i) The Executive will be responsible for the implementation of decisions within the policy framework set by the Council in relation to 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.
- (ii) Decisions will be taken in accordance with the Executive Procedure Rules.
- (iii) Executive Councillors are permitted to commission work from officers on policy initiatives.
- (iv) Without prejudice to the generality of the foregoing the Executive shall be responsible for the exercise of the following specific functions

<b>Function</b>	
<b>1.</b>	Any function under a local Act other than a function specified elsewhere in this Part 3.
<b>2.</b>	The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (appeals against exclusion of pupils).
<b>3.</b>	The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).
<b>4.</b>	The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the School Standards and Framework Act 1998 (children to whom Section 87 applies: appeals by governing bodies).
<b>5.</b>	The making of appointments to the Joint Appointments Committee under Paragraphs 2 to 4 (appointment of Members by relevant Councils) of Schedule 2 (Police Authorities established under Section 3) to the Police Act 1996.
<b>6.</b>	Any function relating to contaminated land.

<b>Function</b>	
<b>7.</b>	The discharge of any function relating to the control of pollution or the management of air quality.
<b>8.</b>	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.
<b>9.</b>	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
<b>10.</b>	The making of agreements for the execution of highways works.
<b>11.</b>	The appointment of any individual: <ul style="list-style-type: none"> <li>(a) to any office other than an office in which he is employed by the authority;</li> <li>(b) to any body other than – <ul style="list-style-type: none"> <li>(i) the authority;</li> <li>(ii) a joint Committee of two or more authorities;</li> <li>(iii) a politically balanced body; or</li> </ul> </li> <li>(c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment.</li> </ul>
<b>12.</b>	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.
<b>13.</b>	Consideration of a Report from a Local Commissioner under Section 31 or a further Report under Section 31A of the Local Government Act 1974 and of actions taken or proposed to be taken in response where the findings contained in the Report relate to the functions of the Executive.

The above is subject to the delegation of specific powers to the Chief Executive and Chief Officers. Those with delegated powers may always refer the matter back to the Executive if considered appropriate.

## DELEGATIONS TO HEAD OF PAID SERVICE AND ALL CHIEF OFFICERS

### **A General**

- 1 The Chief Officers referred to in this section are those set out in Article 9 of the Constitution.
- 2 The Head of Paid Service and all Chief Officers have the general powers set out in section B (General Powers of the Head of Paid Service and All Chief Officers).
- 3 Chief Officers are authorised to carry out the specific functions of the Council delegated to them in Section C below (Specific Powers of the Head of Paid Service, Chief Officers and Other Officers).
- 4 In addition to the general and specific powers referred to in this Part 3 Chief Officers may also be delegated authority to exercise Executive functions by the Leader of the Council, the Executive, a Committee of the Executive or an individual Executive Councillor pursuant to the Executive Procedure Rules in Part 4 of this Constitution.
- 5 All Chief Officers must exercise both their general and specific powers and authority delegated under the Executive Procedure Rules in accordance with the Conditions set out in Section D below (Conditions applying to all Chief Officer Powers).
- 6 Section C also contains specific delegations to officers who are not Chief Officers to aid the efficient and effective discharge of the Council functions. The conditions in Section D below apply to the exercise of such delegated powers.

### **B General Powers of the Head of Paid Service and all Chief Officers**

1. Subject to the powers of the Appointments Committee, to undertake the day-to-day management and control of their Directorate/Office, the functions administered by their Directorate/Office and the services for which they are responsible including:
  - (a) the appointment, discipline, termination and management of employees;
  - (b) the management, furnishing and equipping of premises for which they are responsible; and
  - (c) taking and implementing decisions including, in particular, any decision which is concerned with maintaining the operation or effectiveness of those services or with a matter incidental to the discharge of the

Council's functions or which falls within the scope of a policy decision taken by the Executive or the Council's policy framework

This general power is in addition to any specific powers which may be given to them.

2. In connection with the functions administered by their Directorate/Office,
  - 2.1 In pursuance of section 222 of the Local Government Act 1972:
    - (a) to prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, to institute them in the name of the Council; and
    - (b) in the name of the Council to make representations in the interests of the inhabitants at any public inquiry, local inquiry or written representation procedure or hearing held by or on behalf of any Minister or public body under any enactment.
  - 2.2. to exercise the Council's statutory powers to enter upon land and premises for the purposes of inspection, survey, carrying out of any works, investigation of any matter, the taking of samples or for any other purpose for which the Council are so authorised, and to give such notices as may be required in relation thereto.
  - 2.3. to fix fees for services and the use of premises for which fees have not otherwise been fixed.
  - 2.4. to give or refuse consents, issue determinations, apply for permissions, make orders and grant, rescind or refuse all licences, certificates, permits and registrations under any legislation
  - 2.5 to approve redundancies and early retirements in consultation with the Executive Councillor.
  - 2.6 to obtain particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
  - 2.7 to make arrangements for the provisions of supplies and services by and for other local authorities and public bodies (as defined) under the Local Authorities (Goods and Services) Act 1970 or other enabling legislation.
  - 2.8 to issue, serve, receive and act upon notices, and to impose requirements under any legislation.
  - 2.9 to declare land and premises surplus to requirements, after consultation with appropriate Executive Councillor(s) and local Councillor(s).

- 2.10 to accept tenders, place contracts and procure other resources or services within or outside the Council subject to compliance with the Financial Regulations and Contract Regulations
  - 2.11 exercise virement within the financial limits contained in the Financial Regulations
  - 2.12 to sign on behalf of the Council any document to give effect to any decision made by the Council
  - 2.13 to make a formal response on behalf of the County Council to any White Paper, Green Paper, Government Consultation Paper or draft European Union Directive after reference first to the relevant Executive Councillor, or the Leader of the Council or the Chairman of the Regulatory Committee concerned.
- 3 Nothing contained in paragraphs 1 or 2 shall affect or detract from the exercise by a Chief Officer of any function conferred directly on the Chief Officer by any provision of this Constitution.
4. All Chief Officers may authorise in writing any other named Officer or Officers of the Council, either generally or specifically for the purpose, to exercise any or all of the powers authorised to be exercised by them, except for this power. Chief Officers must prepare in writing a scheme authorising any other officers to exercise such powers. Chief Officers shall remain accountable for any action or decisions taken under such authority.
- 5 In the event of a Chief Officer post being vacant then subject to any arrangements provided for in any scheme of delegation prepared by a Chief Officer under paragraph 3 above that Chief Officer's delegated powers may be exercised by the relevant Assistant Directors within that Directorate so far as permitted by law.



## **C      SPECIFIC POWERS OF THE HEAD OF PAID SERVICE, CHIEF OFFICERS AND OTHER OFFICERS**

### **HEAD OF PAID SERVICE**

#### **General**

1. To act as the Head of Paid Service in pursuance of the Local Government and Housing Act 1989. To have overall Corporate Management and operational responsibility (including overall management responsibility for all staff).
2. To grant or refuse permission for the display of the Coat of Arms and/or badge of the County.
3. To fix fees for copies of documents and extracts of documents requested by the public under the provisions of the Local Government (Access to Information) Act 1985 and Freedom of Information Act 2000.
4. To exercise the functions of the Council under charities legislation.
5. To appoint Councillors to Committees and Panels and Sub-Committees and Sub-Panels in accordance with the wishes of Group Leaders, Deputy Group Leaders and Group Whips in accordance with Rule 5 of the Council Procedure Rules in Part 4 of this Constitution and the duty arising under Section 16 of the Local Government and Housing Act 1989.
6. To progress the strategic development of the Council.
7. On appointment, to undertake all the functions of the Returning Officer.
8. To undertake appropriate and necessary action when vacancy in office occurs.

#### **Communications**

1. To provide corporate communications functions.

#### **Community Engagement**

1. To promote community engagement and development.

### **EXECUTIVE DIRECTOR - RESOURCES**

1. To undertake all money market transactions associated with the cash flow functions of the Council including the raising and repayment of all loans within the limits determined by the Council from time to time.
2. To authorise the payment of statutory pensions and allowances, gratuities and compensation.
3. To make ex-gratia payments for loss or damage to property and to settle claims where there is no legal liability up to the authorised limit of £1,000.
4. To pay national pay awards.
5. To effect appropriate insurance cover in respect of Members and Officers of

the Council appointed in an official capacity to represent the interests of the Council on the Boards of Limited Companies.
6. To make loans and advances to outside bodies in accordance with the policies and limits determined by the Council. Details of current policies are shown in Annex A.
7. To undertake or arrange for all necessary transactions associated with the management of the assets of the Pension Fund.
8. Subject to subsequent report to the Overview and Scrutiny Management Board, to authorise an increase in the target area budget of that Committee to fund any shortfall in expenditure necessary towards the realisation of a capital receipt and which cannot be capitalised.
9. To determine a current maximum annual rental for contract hire cars under the modified contract hire car scheme for the Chief Executive, Executive Directors, Director, Heads of Function and other qualifying Officers of the Council.
10. To act as Chief Finance Officer in pursuance of the Local Government Finance Act 1988.
11. To agree appropriate means of securing external representation on the Pension Committee, in consultation with relevant external bodies.
12. To maintain an adequate and effective internal audit service.
13. To effect all insurance cover in respect of County Council activities and responsibilities, including making appropriate arrangements for the investigation and settlement of claims.
14. To approve allocations from the corporate contingency revenue budget in consultation with the Executive Councillor with responsibility for finance and any other appropriate Executive Councillors.
15. To arrange appropriate banking and related services on behalf of the Council including opening and closing bank accounts.
16. To exercise the function of the Council in relation to the use of badges for display on disabled persons' motor vehicles.
<b>Human Resources</b>
1. To be responsible for Human Resources and Organisational Development.
<b>Democratic Services</b>
1. To manage support for the Leader and Chairman's Office.
2. To operate Members' Allowances in line with the resolution of the County Council on this matter.
<b>Information Governance</b>
1. To ensure arrangements are in place across the Council for the effective and secure management of data in accordance with the Council's Data Protection obligations.
<b>Complaints</b>
1. To act as the complaints manager under Regulation 22 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 and to make arrangements for dealing with complaints under Regulation 21 of the said Regulations)

## ANNEX A

<b>LOANS AND ADVANCES TO OUTSIDE BODIES</b>
In the event that an organisation from outside the County Council seeks temporary funding from the Council which is repayable to the Council and is for a short period of time, the following rules apply:
1. Where:
(i) the need for the money is related to an established County Council Policy or initiative; and
(ii) the money is expected to be recovered within a 6 month period;
then:
(a) Where the money is less than £20,000 Executive Director - Resources shall have the power to approve such cases;
(b) Where the money lent is greater than £20,000 but less than £50,000, the Executive Director - Resources shall have the power to approve such cases but shall report such instances in writing to the Executive Councillor responsible for finance.
(c) Where the money lent is £50,000 or more, then the Executive Director - Resources shall consult with the appropriate Executive Councillors before approving and shall report the arrangements made to the first available meeting of the Overview and Scrutiny Management Board.
2. In all cases it is expected that interest at appropriate market rates would be charged. There may, however, be instances where an interest charge would be inappropriate. In that case the Executive Director - Resources be given the power to waive the interest element where in his opinion it would be inappropriate. Where the interest involved is significant (over £10,000) then such waiver would be after consultation with the appropriate Executive Councillor responsible for finance.

## EXECUTIVE DIRECTOR - CHILDREN'S SERVICES

### Education

1. To make grants within a framework approved by the Council including:
(a) for the establishment, maintenance, staffing or equipment of youth clubs and groups;
(b) to support the provision made by voluntary and other organisations where there are educational benefits to the people of Lincolnshire;
2. To make, suspend and reinstate grants and pay tuition or ancillary fees and/or grants to, or in respect of:
(a) students attending establishments of higher or further education or taking other approved courses of education and/or training and to authorise transfer between courses;
(b) pupils attending boarding schools and independent or direct grant schools and schools not maintained or assisted by the County Council;
(c) maintenance, uniform or free school meals;
(d) other young people of particular merit.
3. To authorise the attendance of pupils and teachers on courses or activities outside of school.
4. To discharge the statutory duties of the County Council as schools admission authority and to arrange for the admission and allocation of pupils to schools and in the case of grant-maintained schools to direct the admission of a pupil to such schools.
5. To exercise the functions of the Council in relation to home to school and college transport, school attendance, the employment of children and young persons, cleanliness of pupils and the ascertainment of need and provision for special educational treatment.
6. To appoint lay Members and Local Authority Members to School Admission Appeal Committees, under Section 43 and Schedule 33 of the Education Act 1996.
7. To approve, in circumstances which the Executive Director considers to be exceptional, any change to the admission policy of County and Controlled schools, excluding any change which would constitute a change in character of the school.
8. To make all necessary arrangements to implement the approved Scheme for the Local Management of Schools.
9. To make minor alterations to the "designated areas" associated with County primary and secondary schools.
10. To make all appropriate arrangements to secure the assessment of any pupil's special educational needs as may be required under the terms of the Education Acts.
11. In relation to schools identified as "needing special measures" consequent upon OFSTED inspections to submit to the Secretary of State and HM Chief Inspector, the comments of the County Council as the local education authority on governors' action plans together with a statement of action which the County Council intends to take.
12. Following consultation with the relevant Committee, to issue warning notices

under the School Standards and Framework Act 1998, and to appoint such additional governors as seen fit following a governing body's failure to comply with the terms of the notice issued by the Authority.
13. To set the yearly indicative targets for permanent exclusions and unauthorised absence from schools for Lincolnshire, to be included in the Education Development Plan.
14. To take and implement decisions and to exercise statutory powers relating to the health and welfare or school attendance of individual children, and to take all steps in any related statutory process.
<b>Services for Children in Need</b>
1. To exercise the functions of the Council in relation to:
(a) adoption and fostering
(b) admission to all forms of accommodation including secure accommodation;
(c) promotion of the welfare, protection, supervision, care and after care of children and young persons;
(d) Children in need.
2. To act as guarantor in the matter of hire purchase agreements on behalf of children in care.
3. To make grants or incur expenditure:
(a) to prevent or diminish the need to bring children into care or to keep them in care;
(b) in respect of rent and damage guarantees;
(c) to provide any child or young person in care with such equipment considered necessary for their well-being;
(d) in respect of any child or young person in care participating in a holiday either through a school or with foster parents;
(e) in respect of special clothing grants to children in care;
(f) in respect of extra grants to children for special purposes;
(g) in respect of payments to children formerly in care;
(h) in respect of adoption allowances;
(i) in respect of playgroups (Capital and Revenue);
(j) in respect of children in need.
4. To pay enhanced boarding out allowances in exceptional circumstances.
5. To take decisions in respect of the Council's functions acting as Accountable Body in connection with Sure Start.
6. To take decisions in the exercise of the power to licence the employment of children.
7. To approve variations of fees so far as they have been agreed by the "Examining Authority" and for which the Council have accepted responsibility for children, young persons or adults attending or residing in establishments not maintained or assisted by the Council and to approve alterations in charges for the maintenance of such residents.
8. To authorise payment for maintenance of people for whom the Council is financially responsible in homes provided by other local authorities and bodies.
9. To approve, following consultation with the appropriate Executive Councillor, the appointment of replacement visiting members of Social Services establishments.

10. To approve agreements and contracts with or grants to voluntary organisations in undertaking the functions of Children's Social Services and the services for which the Director is responsible.
<b>Youth Offending</b>
1. To exercise the functions of the County Council in relation to the Youth Offending Service.

<b>EXECUTIVE DIRECTOR - ADULT CARE AND COMMUNITY WELLBEING</b>
<b>Services for Adults and Older People</b>
1. To accept Guardianship applications under Section 8 of the Mental Health Act 1983
2. To consent under Section 8(4) of the Mental Health Act 1983 to any amendment of any Guardianship application which has been accepted or any medical recommendation.
3. To designate Approved Social Workers as Officers for the purposes of the Mental Health Act 1983.
4. To maintain registers of sensory impaired and disabled persons.
5. To approve the disposal of assets belonging to deceased residents to persons entitled to them after payment of proper claims on account of funeral expenses and sums due to the Council.
6. To incur expenditure either directly or via provision of
(a) equipment to persons permanently and substantially disabled;
(b) for special purposes, e.g. recreational, educational and social facilities;
(c) of adaptations to property occupied by persons permanently and substantially disabled.
7. To approve augmentation for a person on a Blind Homeworker Scheme.
8. To authorise the admissions and payment of purchases of all forms of residential, day and domiciliary care.
9. To approve variations of fees so far as they have been agreed by the "Examining Authority" and for which the Council have accepted responsibility for children, young persons or adults attending or residing in establishments not maintained or assisted by the Council and to approve alterations in charges for the maintenance of such residents.
10. To authorise payment for maintenance of people for whom the Council is financially responsible in homes provided by other local authorities and bodies.
11. To approve expenditure incurred in the protection of movable property or persons and to recover such expenditure where applicable.
12. To make assessment of contributions by persons provided with services and to approve variation of assessed charges to avoid hardship.
13. To add additional persons to the list of Independent Chairmen of the Complaints Review Panel established under the National Health Service and Community Care Act 1990.
14. To approve, following consultation with the appropriate Executive Councillor, the appointment of replacement visiting members of Social Services establishments.

15. To approve agreements and contracts with or grants to voluntary organisations in undertaking the functions of Social Services Directorate and the services for which the Director is responsible.
16. To authorise under the provisions of the Human Tissue Act 1961 (where the Council is in lawful possession of the body) the removal of parts of the body of a deceased resident in accordance with the wish expressed by the resident during his/her lifetime.
17. To exercise the functions of the Council in relation to adult safeguarding and in particular to
(i) Maintain a clear organisational and operational focus on safeguarding vulnerable adults
(ii) Ensure that relevant statutory requirements and other national standards are met
(iii) Encourage a culture of vigilance against the possibility of adult abuse
(iv) Ensure all services within the remit of the post remain focused appropriately on safeguarding adults; and
(v) Promote equality of opportunity and eliminate discrimination in respect of adult care services
<b>Services in relation to Community Wellbeing</b>
1. To support delivery of strategic and supported housing.
2. To promote general health and wellbeing.
3. To exercise the functions of the County Council in relation to the Drug and Alcohol Action Team.
4. To contribute to the development of the Joint Strategic Needs Assessment.
5. To administer the Health and Wellbeing Fund.
6. To facilitate the Health and Wellbeing Board.
<b>Director of Public Health</b>
1. To act as Director of Public Health in accordance with Section 73A of the National Health Services Act 2006 and to carry out the functions as set out in that section and Regulations thereunder.
2. To produce the Annual Health Report.
3. To carry out and publish health needs and health impact assessments.

## EXECUTIVE DIRECTOR – PLACE

### Highways, Construction and Maintenance

1. To act as Engineer in Civil Engineering Contracts where the County Council, Highways Agency, or Lincolnshire's Partners are the Employer.
2. To take the role of Employer in Civil Engineering Contracts where the County Council is the employer in respect of:
  - (i) deduction of liquidated damages;
  - (ii) other matters within the limits imposed by the Financial Regulations.
3. To accept appointments to prepare and supervise civil engineering works on behalf of the Highways Agency and other public bodies, private individuals, firms and other bodies.

4. To provide and maintain cattle grids, fences, boundary posts and road footway lighting systems.
5. To carry out minor maintenance activities under the Highways Act 1980 and the Countryside Act 1968 and make decisions on related payments, land exchanges, gifts, rents, speed regulations and similar accommodations.
6. To determine, after consultation with the local Councillor and Chairman and Vice-Chairman of the Planning and Regulation Committee, applications for pedestrian crossings falling within defined criteria.
7. To object to other authorities' formal traffic proposals where they adversely affect highways in Lincolnshire.
8. To convert lengths of footway into combined footway and cycle tracks, subject to no objections being received.
9. To make changes to the Road Hierarchy.
10. To submit proposals for road classification, re-classification or re-numbering, to the Government Office for the East Midlands.
11. To incur capital expenditure on highway improvement and maintenance schemes subject to:
(i) a maximum scheme cost of £100,000, additional expenditure to be contained within the approved total Highways Capital Programme;
(ii) prior consultation with the Executive Director - Resources and the appropriate Executive Councillor.
12. In connection with the New Roads and Street Works Act 1991 and any other relevant enabling legislation:
(i) to approve the declaration of an existing highway to be a new street;
(ii) to settle payments to be made by owners of new buildings in respect of street works;
(iii) to make up, vary the width of and adopt after the execution of street works.
13. Following consultation as appropriate, to designate County roads as protected Streets and/or Streets with Special Engineering Difficulty under the New Roads and Street Works Act 1991, and to withdraw such designations as appropriate.
14. To agree with, and for exercise by, the Secretary of State certain functions of the Council in respect of highways affected by the construction, etc, of a trunk road.
15. To comment to the Highways Agency on their proposed Orders, except where formal objection is to be made.
16. Following consultation with the appropriate Executive Councillor, to determine future percentage rates and/or thresholds at which the development road fee could be reduced for certain developments.
17. To carry out the statutory requirements acting on behalf of Lincolnshire County Council as the Enforcement Authority for all aspects of Civil Parking Enforcement and appeals processes as specified in the Traffic Management Act 2004 part 6, the Road Traffic and Regulation Act 1984, the Road Traffic Act 1991, Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.
<b>Management of Highways</b>
18. To advertise proposals for Road Traffic Regulation Orders and to pursue and



progress proposals for the stopping-up of highways which are in accordance with Council policy and which, at preliminary consultation stage, are supported by the Chief Constable and the relevant local Council, and to confirm orders to which no objections are received.
19. To advertise and consult concurrently on all Traffic Regulation Order proposals other than those relating to speed limits.
20. Following consultation with the appropriate Executive Councillor, to proceed to public advertising and consultation of speed limit proposals where the Executive Director considers that appropriate.
21. To make representations to the Highways Agency on draft orders for the stopping-up or diversions of Highways to enable development to be carried out in accordance with planning permission.
22. Under any legislation relating to the functions administered by the Executive Director - Resources
(i) to serve or display notices;
(ii) to grant or refuse consents, approvals, licences, authorisations and permissions;
(iii) to impose requirements;
(iv) to exercise any powers preliminary to or subsequent upon (i) to (iii).
23. Powers under 22(ii) in respect of the siting of tables and chairs on highways and in pedestrian areas within the highway, are subject to the Planning and Regulation Committee considering adverse comments and objections.
24. To make temporary orders regulating traffic and diverting highways.
25. To assert and protect the rights of the public on highways including the removal of anything that represents an obstruction, nuisance, danger or interference to any highway.
26. To make observations and lodge formal objections to District Councils in respect of Public Path Orders proposed to be made by them under sections 26, 118 and 119 of the Highways Act 1980 or section 257 of the Town and Country Planning Act 1990.
27. To make and to authorise the making of Orders under the following statutory provisions:
(i) Highways Act 1980, Section 25 (creation of footpaths, bridleways and restricted byways by agreement).
(ii) Highways Act 1980, Section 26 (creation of footpaths, bridleways and restricted byways by order).
(iii) Highways Act 1980, Section 118 (extinguishment of footpaths and bridleways and restricted byways).
(iv) Highways Act 1980, Section 118A (power to make a rail crossing extinguishment order).
(v) Highways Act 1980, Section 118B (power to make special extinguishment orders).
(vi) Highways Act 1980, Section 119 (diversion of footpaths and bridleways).
(vii) Highways Act 1980, Section 119A (power to make a rail crossing diversion order).
(viii) Highways Act 1980, Section 119B (power to make special diversion order).
(ix) Highways Act 1980, Section 135 (power to authorise and make a

	Diversion Order allowing for the temporary disturbance of a footpath, bridleway or restricted byway).
(x)	Highways Act 1980, Section 132 (power to remove items painted, inscribed or affixed to the surface of or tree structure or works on or in the highway).
(xi)	Highways Act 1980, Section 134(6) (power to enforce provisions regarding inter alia ploughing).
(xii)	Highways Act 1980, Section 134(8) (power to grant an extension).
(xiii)	Highways Act 1980, Section 137A (power to enforce the provisions in relation to interference by crops).
(xiv)	Highways Act 1980, Section 143 (power to remove structures from highways and to recover costs from the person having control or possession of the structure).
(xv)	Highways Act 1980, Section 145 (power to enforce minimum widths for gates across highways).
(xvi)	Highways Act 1980, Section 154 (power to require removal of overhanging trees or shrubs).
(xvii)	Highways Act 1980, Section 164 (power to require removal of barbed wire).
(xviii)	Highways Act 1980, Section 297 (power to require information as to ownership of land).
(xix)	Highways Act 1980, Section 300 (right to use appliances and vehicles on footpaths, bridleways and restricted byways).
(xx)	Highways Act 1980, Schedule 12A (power to carry out works in relation to interference with highways).
(xxi)	Cycle Tracks Act 1984, Section 3 (power to designate footpath as cycle path).
(xxii)	Housing Act 1981, Section 294 (power to extinguish public right of way over land acquired for clearance).
(xxiii)	Countryside and Rights of Way Act 2000, Section 35 (power to enter into agreements with respect to means of access).
(xxiv)	Countryside and Rights of Way Act 2000, Section 37 (power to provide access in absence of agreement).
(xxv)	Wildlife and Countryside Act 1981, Section 57A (power to prepare map and statement by way of consolidation of Definitive Map and Statement).
(xxvi)	Town and Country Planning Act 1990, Section 257 (stopping up and diversion of footpaths and bridleways).
(xxvii)	Town and Country Planning Act 1980, Section 258 (power to extinguish public rights of way over land held for planning purposes).
(xxviii)	Town and Country Planning Act 1990, Section 261 (temporary stopping up of footpaths and bridleways for mineral workings), and, where appropriate, in the event of no objections being made or any objections made being withdrawn, to confirm the same.
28. To enter into agreements in respect of permissive (or concessionary) paths.	
29. To take prosecution action under National Parks and Access to the Countryside Act 1949, Section 57 and to serve notices, to take appropriate default action and/or prosecution action and reclaim full costs under the Highways Act 1980 as amended.	

30. Power to act in accordance with any court order made under Section 130B of the Highways Act 1980 including any application to the Court to vary or appeal any order made.
31. To make and authorise the making of Modification Orders to keep the Definitive Map and Statement up-to-date in respect of changes resulting from the events specified in sections 53 and 54 of the Wildlife and Countryside Act 1981 and to determine the relevant date for such Orders pursuant to Section 56(3) of the 1982 Act and in the event of no objections being made or objections being made and being withdrawn, to confirm the same. On the receipt of an objection to submit the Order to the Secretary of State.
32. To make and, where appropriate, waive charges in respect of Public Path Orders.
33. Power to make an application to the Magistrates' Court to authorise the stopping up or diversion of a highway under Section 116 of the Highways Act 1980.
34. For the purpose of assessing priority for Public Rights of Way maintenance, to set, upgrade and downgrade Public Rights of Way within priorities determined.
35. To nominate members of the public to carry out site inspections in relation to non-statutory stages in the implementation of the Highways Act 1980 as amended and the Wildlife and Countryside Act 1981.
36. Power to make byelaws as respects access to land under Countryside and Rights of Way Act 2000, Section 17.
37. Power to appoint wardens as respects access to land under the Countryside and Rights of Way Act 2000, Section 18.
38. Power to erect and maintain notices as respects access to land under the Countryside and Rights of Way Act 2000, Section 19.
39. Power to apply to the Magistrates' Court for an Order to remove an obstruction to access under the Countryside and Rights of Way Act 2000, Section 39.
40. Duty to establish Local Access Forum including power to establish new forums withdraw from joint forums and merge forums and to publish annual Local Access Forum Report under the Countryside and Rights of Way Act 2000, Section 94 and statutory regulations.
41. To act as Traffic Manager as referred to in the Traffic Management Act 2004 generally through authorisation to the Assistant Director Highways.
<b>Spatial Planning, Conservation and Environment</b>
1. To make grants towards landscape schemes.
2. To maintain the Historic Environment Record.
3. To take the appropriate action in respect of certain functions of the County Council as local planning authority (after consultation with the Chairmen of the appropriate Committees where considered necessary), those functions being:
• Tree Preservations Orders and Trees in Conservation Areas;
• Forestry Commission Matters;
• Regulation 3 of the Town and Country Planning General Regulations 1992;
• Plan Briefs and Similar Documents;

<ul style="list-style-type: none"> <li>• Certificate of Lawfulness of Existing Use or Development (CLEUD) (Planning and Compensation Act 1991 (S.191));</li> </ul>
<ul style="list-style-type: none"> <li>• Certificate of Lawfulness and Proposed Use or Development (CLOPUD) (Planning and Compensation Act 1991 (S.192));</li> </ul>
<ul style="list-style-type: none"> <li>• Planning applications affecting the interests of the County.</li> </ul>
4. To initiate appropriate enforcement action in respect of development carried out without the grant of planning permission or in breach of a condition of planning permission. Also, to take such actions as may be considered appropriate including, if necessary, the issue of enforcement and/or stop-notices under the Town and Country Planning Act 1990 as amended by Planning and Compulsory Purchase Act 2004.
5. To approve matters reserved by a condition of any planning permission in respect of County Council, waste or minerals development.
6. To issue any Direction pursuant to any requirement under Article 7 of the Town and Country Planning (General Permitted Development) Order 1995.
7. To issue any Opinion or Direction pursuant to the Town and Country Planning (Environmental Assessment and Permitted Development) Regulations 1999.
8. To issue Certificates of Conformity/Non-Conformity in respect of local plans under Section 46 of the Town and Country Planning Act 1990.
9. To prescribe improvement building frontage and sight lines.
10. To make grants in respect of Historic Buildings and premises included in Enhancement Schemes.
11. To make observations and recommendations on behalf of the Council as highway authority in reply to consultation by district planning authorities on planning applications of the description in paragraphs (f), (g) and (h) of the table to article 18(1) of the Town and Country Planning General Development Order 1988.
12. To enter into agreements under section 278 of the Highways Act 1980 relative to highway improvement works provided the costs of the works are secured by the agreement and to execute the works.
13. To adopt highways.
14. To comment to the Department for Transport on applications made to Department for grants under S.36 of the Transport Act 1981.
15. To approve all applications for planning permission (including the determination of schemes of conditions submitted under the Environmental Act 1995 Minerals Review), for Hazardous Substances Consent, Listed Building Consents and Conservation Area Consents except where:- <ul style="list-style-type: none"> <li>• Those applications and proposals in accordance with the Development Plan where objections are raised by other local authorities;</li> <li>• Those applications which are Environmental Impact Assessment applications;</li> <li>• Those which are recommended for refusal;</li> <li>• All applications where more than 3 individual representations from separate properties raising planning related objections are received;</li> <li>• Those involving a departure from the Local Plan; and</li> <li>• Those which have been referred to Committee by a Local Member.</li> </ul>
16. To negotiate section 106 agreements in connection with planning applications relating to applications dealt with by district councils concerning infrastructure

which the County Council would be responsible for providing.
17. To act under any powers or duties under legislation imposed on the County Council with respect to flood risk management.
<b>Transport Services</b>
1. To enter into agreements providing for subsidies of public passenger transport services under Section 88 of the Transport Act 1985.
2. To make grants to provide, maintain or improve any passenger carrying vehicles, equipment or facilities provided for the purpose of facilitating travel by disabled persons under Section 106 of the Transport Act 1985.
3. To enter into agreements with local bus operators to make quality bus partnerships, quality contract schemes or ticketing schemes under the Transport Act 2000.
4. To enter into agreements with local bus operators for non-statutory quality bus partnerships.
5. To enter into agreements providing for the supply of passenger transport services including those for: <ul style="list-style-type: none"> <li>• mainstream education pupils;</li> <li>• special educational needs pupils;</li> <li>• social services clients.</li> </ul>
6. To make grants to Parish Councils for improvement of bus shelters.
7. To enter into agreements for car contract hire scheme for employees of the Authority fleet services and contract hire arrangements for Specialist vehicles.
8. To take such decisions on the withdrawal of local bus services to remain within budget, subject to consultation with the appropriate Executive Councillor.
<b>Other</b>
1. To determine, following consultation with the appropriate Executive Councillor and Overview and Scrutiny Committee or Panel and the Executive Director - Resources, where there is an immediate threat to a site, requests to the County Council for support towards habitat and environmental site acquisitions.
<b>Economic Development</b>
1. To make grants and loans within a framework approved by the Council including <ul style="list-style-type: none"> <li>a) Lincolnshire Loan Fund for Business Development</li> <li>b) Lincolnshire Community Business Development Finance Initiative and</li> <li>c) Specific initiatives to support rural communities</li> </ul>
2. To develop sites and premises for economic development purposes <ul style="list-style-type: none"> <li>a) to procure services in accordance with the regulations and established policies and principles of Lincolnshire County Council</li> <li>b) to work together with public and private sector partners to bring forward new capital projects</li> <li>c) to agree the sale and letting of sites within the economic development portfolio</li> </ul>
3. To deliver the tourism policy and function for Lincolnshire County Council and to manage any contracts for the delivery of tourism services
4. To ensure that external funding programmes are delivered in accordance with the guidelines set out in offer letters.
5. To implement capital projects which will bring about an improvement in the

economic wellbeing of the County and its population
6. To lead an integrated policy and service delivery operation.
<b>Community Assets and Resilience</b>
1. To make grants within a framework approved by the Council including:
a) Towards the cost of establishing, promoting or holding music, dance, arts or other cultural events and activities, as well as Lincolnshire Communities within the overall policies of the Council; and
b) To support the provision made by voluntary and other organisations where there are educational benefits to the people of Lincolnshire.
2. After consultation with the appropriate Executive Councillor, to approve use of Lincoln Castle for charity events and to determine financial arrangements.
3. To exercise the functions of the Council as library authority and in relation to museums and art galleries under the Public Libraries and Museums Act 1964, and as archive authority under the Local Government Act 1972, s 224 and the Public Records Act 1958 and 1967 and other enabling legislation.
<b>Waste</b>
1. To exercise the functions of the Council in relation to treatment and disposal of waste.

## EXECUTIVE DIRECTOR – COMMERCIAL

### Property

1. In connection with the estate management of the County Council's land and premises, in consultation with the local Councillor:
(i) to acquire land and premises;
(ii) to dispose of land and premises surplus to requirement;
(iii) to dispose of surplus County Farms land and property surplus to requirements subject to discount, in accordance with the County Farms Management Plan and policies approved by the Executive and following consultation with the appropriate Executive Councillor;
(iv) to accept and grant leases of land and premises and such other rights over land and premises as may be deemed necessary or appropriate;
(v) to manage and let County Farms holdings as may be deemed necessary or appropriate in accordance with the Management Plan approved by the Executive following consultation with the appropriate Overview and Scrutiny Committee or Panel and (except in cases where the Council's seal must be affixed thereto) to sign agreements to give effect to such acquisitions, disposals, acceptances, grants or lettings, provided that the form of any such agreement has been approved by the Solicitor(s) to the Council.
2. To seek permission for any development referred to in regulation 3 of the Town and Country Planning General Regulations 1992.
3. To determine and serve notices under the terms of any agreement for the use of land or premises.
4. To undertake the role of Travellers Liaison Officer in consultation with other Directorates in matters of illegal camping and site provision.

### Information Management and Technology

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1. To develop the Corporate IT Policy including digital channel shift and provide general advice thereon.
2. To operate and deliver IT infrastructure, services, systems and software.
3. To undertake a research function on behalf of Lincolnshire County Council and provide information and analysis of the census.
<b>Commercial</b>
1. To develop the Council's corporate business plan.
2. To advise the Council on its Equality and Diversity obligations.
3. To manage and develop the Council's Strategic contract with Serco.
4. To deliver the Council's corporate procurement function including the shared service with the Districts.
5. Provide commercial advice and support to Commissioners.

## CHIEF LEGAL OFFICER

1.	To act as solicitor to the Council for any purposes and subject to consultation with such of the Executive, Executive Councillor, Committee or Chief Officer as may be appropriate, to exercise discretion whether to issue or defend proceedings on behalf of the County Council in any Court or Tribunal or before any other body with jurisdiction, including arbitration or adjudication, to enter into mediation or other alternative dispute resolution processes or otherwise to settle claims disputes and proceedings and to take such other actions as are appropriate for the solicitor to the Council and which are necessary to protect, maintain and fulfil the interests, rights and duties of the Council.
2.	To act as Monitoring Officer under Section 5 of the Local Government and Housing Act 1989. As Monitoring Officer to consider applications for dispensations in respect of disclosable pecuniary interests.

## CHIEF FIRE OFFICER

<b>Fire and Rescue Service</b>
1. To make appropriate arrangements for dealing with matters relating to the discipline and dismissal of uniformed Fire Officers pursuant to the relevant legislation
2. To reduce retaining fees in cases in which attendance is required only during limited periods, and in cases of failure to attend for training, fires and other duties.
3. To review from time to time risk categories and pre-determined attendances.
4. To waive or make nominal charges in respect of special services.
5. To approve or refuse applications from members of the Lincolnshire Fire and Rescue Service ("the Service") to engage in outside employment.
6. To measure the provision of water for fire fighting purposes.
7. To make, vary or revoke reinforcement schemes and other arrangements with

other Fire and Rescue Authorities for the discharge of the Council's functions as Fire and Rescue Authority.
8. To be directly responsible to the relevant Executive Councillor acting on behalf of the Council in its capacity as Fire and Rescue Authority for the Service as maintained under the Fire and Rescue Service Act 2004 having regard to the Fire and Rescue National Framework.
9. Powers to issue, amend or replace safety certificates (whether general or special) for sports grounds under the Safety of Sports Grounds Act 1975.
10. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds under Part III of the Fire Safety and Safety of Places of Sport Act 1987.
11. Power to enter into an agreement under Section 39 of the Fire and Rescue Services Act 2004 with a water undertaker for securing that an adequate supply of water will be available for use in the event of fire.
12. Power to enter into an agreement under Section 41 of the Fire and Rescue Services Act 2004 (a) to secure the use of water under the control of a person other than a water undertaker; (b) to improve access to any such water; or (c) to lay and maintain pipes and to carry out other works in connection with the use of such water.
13. Power to authorise in writing named employees to carry out those actions provided for in sections 44 (Powers of fire-fighters etc in an emergency etc), 45 (Obtaining information and investigating fires) and 46 (Supplementary powers) of the Fire and Rescue Services Act 2004.
14. Power, in consultation with the Chief Legal Officer, to prosecute: <ul style="list-style-type: none"> <li>(i) those offences falling under the following provisions of the Fire and Rescue Services Act 2004 namely: <ul style="list-style-type: none"> <li>• Section 40 (water undertaker's failure to comply with request regarding emergency supply of water);</li> <li>• Section 42 (improper use of, or damage to, a fire hydrant);</li> <li>• Section 43 (failure to give notice of intended works to a fire hydrant);</li> <li>• Section 44 (obstruction of or interference with officers exercising Section 44 powers);</li> <li>• Section 46 (obstruction of officers exercising section 45 powers or failure to provide information in response to exercise of section 46 powers); and</li> <li>• Section 49 (false alarms of fire); and</li> </ul> </li> <li>(ii) the various offences falling within the provisions of Article 32 of the Regulatory Reform (Fire Safety) Order 2005.</li> </ul>
15. To appoint in writing a named Inspector or Inspectors for the purpose of enforcing the provisions of the Regulatory Reform (Fire Safety) Order 2005.
16. Power to issue and serve an alterations notice pursuant to Article 29 of the Regulatory Reform (Fire Safety) Order 2005.
17. Power to issue and serve an enforcement notice pursuant to Article 30 of the Regulatory Reform (Fire Safety) Order 2005.
18. Power to issue and serve a prohibition notice pursuant to Article 31 of the Regulatory Reform (Fire Safety) Order 2005.
19. Power to issue Petroleum Storage Certificates pursuant to the Petroleum (Consolidation) Regulations 2014.
20. Power to register 'keepers of petrol' pursuant to the Petroleum



(Consolidation) Regulations 2014.
21. Power to enforce regulations 5 (access marking), 6 (location marking) and 7 (signs to be kept clean) pursuant to the Dangerous Substances (Notification and Marking Sites) Regulations 1990 (NAMOS).
22. Power to issue 'Assured Advice' and guidance after demonstration of compliance by the regulated person as set out in 15(4)(b) of the Regulatory Enforcement and Sanctions Act 2008.
23. Power to provide local authorities with advice in accordance with Section 27 of the Regulatory Enforcement and Sanctions Act 2008.
<b>Civil Protection</b>
1. To implement any legislation pertinent to Emergency Planning.
2. To act in pursuance of all statutory and other powers relating to services for which the Service is responsible.
3. To implement the Control of Major Accident Hazard Regulations 1999.
<b>Crime and Disorder</b>
1. To lead the County Councils efforts to fulfil its obligations and duties under Sections 5 and 6 of the Crime and Disorder Act 1998 (as amended and extended by Schedule 9 of the Police and Justice Act 2006) by actively engaging as a County Council and Fire Authority at all levels in the Community Safety Partnerships of Lincolnshire.
2. To establish and lead the county-wide Community Safety Board. To develop and implement the County Community Safety Agreement encompassing the priorities for Lincolnshire, as required by the Police and Justice Act 2006.
3. To lead the County Council's efforts to embed the principles of Section 17 of the Crime and Disorder Act 1998 in every aspect of policy development, budget setting and service delivery in line with the statutory duty that the Act imposes.
4. To drive the County Council's commitment to sharing information with partners as allowed by Section 115 of the Crime and Disorder Act 1998.
<b>Safer Communities Service – Trading Standards</b>
1. Without prejudice to General Powers, to exercise the functions and duties of the Council as local weights and measures authority, food authority, in connection with legislation relating to standards of trade in the county and for the purposes of the enforcement of animal health and welfare legislation, community safety legislation and licensing functions as part of which, for the correct discharge of these functions, the following direct delegations are made.
<b>Head of Safer Communities</b>
1. To institute/and or appear on behalf of the County Council in any legal proceedings including any preliminary or ancillary applications in the relevant Court or tribunal for the prosecution of offences or institution of civil action and the criminal or civil enforcement and administration of legislation relevant to standards of trade, community safety, food and animal health and welfare, licensing or other functions from time to time conferred upon trading standards or weights and measures authorities by legislation and which the County has either a statutory duty or power to enforce or considers it expedient to enforce for the promotion or protection of the inhabitants of the county by virtue of Section 222 of the Local Government Act 1972.
2. To initiate restraint and/or confiscation proceedings under the Proceeds of

Crime Act 2002 or any subsequent related or replacement legislation before the Criminal Courts and to enter into memoranda of understanding with the Police Authority Financial Investigation Units for the purpose of taking such proceedings.
3. Responsibility to ensure that the duties associated with Section 72(1) (a) of the Weights and Measures Act 1985 is discharged within the service.
4. To issue notices with the effect of requiring the marking of, requiring warnings to be issued in respect of, suspending the supply of, requiring the withdrawal from the market of and requiring the recall from the market of products as provided for under legislation which is enforced by the County Council and is relevant to standards of trade, community safety, food and animal health and welfare, or licensing functions or other functions from time to time conferred upon trading standards or weights and measures authorities by legislation.
5. To act as Inspector/authorised officer or other enforcing officer role as provided in, and to inspect enter and investigate for the purposes of enforcement of, legislation which is enforced by the County Council and is relevant to standards of trade, community safety, food and animal health and welfare, or licensing functions or other functions from time to time conferred upon trading standards or weights and measures authorities by legislation and to authorise in writing officers to act in these capacities.
6. To appoint public analysts and agricultural analysts for the County Council for the purposes of the Food Act 1984, the Food Safety Act 1990 and the Agriculture Act 1970 or other functions from time to time conferred upon trading standards or weights and measures authorities by legislation.
7. To nominate in writing Officers for the purposes of enforcing the Food and Environment Protection Act 1985.
8. To enter into appropriate arrangements with other enforcement authorities for the purpose of the enforcement of any legislation which is enforced by the County Council and is relevant to standards of trade, community safety, food, animal health and welfare and licensing functions or other functions from time to time conferred upon trading standards or weights and measures authorities by legislation.
9. To appoint suitable persons under the Health and Safety at Work etc Act 1974 for the purposes of enforcing the Explosives Acts 1875 to 1976 and subsequent legislation made under the Health and Safety at Work etc Act 1974 and otherwise in respect of the regulation of explosives including the Explosives Regulations 2014 and subsequent amendments.
10. To initiate appeals against the decisions of the relevant Court where, in the Head of Safer Communities professional opinion, it is proper so to do.
11. To initiate and co-ordinate all activities necessary for the Council to discharge its responsibilities under the Animal Health Act 1981 in order to prevent, control or deal with an outbreak of rabies or other animal disease in the county.
12. To conduct hearings and to give assent or otherwise under the Explosives Act 1875 to 1976 and subsequent legislation made under the Health and Safety at Work etc Act 1974 and otherwise in respect of the regulation of explosives including the Explosives Regulations 2014 and subsequent amendments in relations to applications for the establishment of new factories or magazines.

13. To discharge the functions of the County Council as a responsible authority under the licensing Act 2003 or any subsequent related or replacement legislation and to appoint other officers of the authority to do so.
<b>Service Manager – Safer Communities</b>
In the absence of the Head of Safer Communities, the Service Managers - Safer Communities are authorised to exercise the powers delegated to the Head of Safer Communities under 1, 2, 4, 7, 8, 9, 11, 12 and 13 above.
<b>Duly Appointed Officers</b>
At all times the duly appointed Officers of the service are, for the purpose of enforcing the relevant legislation, authorised to exercise the powers delegated to the Head of Safer Communities under 1, 2 and 4 above after having, in each case, obtained the permission of the Head of Safer Communities, or, in their absence, a Service Manager – Safer Communities.
<b>Registration and Celebratory Services</b>
1. In respect of the Registration Service:
(a) to approve payments to Registrars, Deputy Registrars of Births, Deaths and Marriages in circumstances justifying payments in excess of the normal allowances to registrars for their services;
(b) to arrange for premises to be leased for the use of Registrars of Births, Deaths and marriages at rents approved by the Chief Property Officer;
(c) to issue a licence for the approval of premises for the solemnisation of marriages under the marriage Act 1994 and civil partnerships under Civil Partnership Act 2004;
(d) to issue certificates and arrange citizenship ceremonies under British Nationality Act 1981.
2. To undertake the statutory role of "Proper Officer", ensuring that Registration of Births, Deaths and marriages service is provided in Lincolnshire, including the licensing of approved premises for the solemnisation of marriages, civil partnerships and citizenship ceremonies.

## “PROPER OFFICER” PROVISION

- 1a Each of the Officers of the Council mentioned in column 1 is the Proper Officer of the Council in relation to the provisions of the Local Government Act 1972 specified against the Officers title in column 2.

<u>Column 1</u> <u>Proper Officer</u>	<u>Column 2</u> <u>Section of</u> <u>1972 Act</u>	<u>Column 3</u> <u>Proper Officers’</u> <u>Functions</u>
Head of Paid Service	83(1) to (4)	Witness and receipt of declarations of acceptance of office.
Head of Paid Service	84	Receipt of declaration of resignation of office.
Head of Paid Service	88(2)	Convening of meeting of Council to fill casual vacancy in the office of the Chairman.
Head of Paid Service	89(1)(b)	Receipt of notice of casual vacancy from two local government electors.
Head of Paid Service	S100B	Determination of which reports or parts of reports should not be disclosed on the grounds that they include exempt information which is likely to be considered private.
Head of Paid Service	S100C	Minuting of meetings and preparing where necessary a written summary of such part of meetings at which the public are not present.
Head of Paid Service	S100F	Determination of which documents should not be disclosed to an elected Member on the grounds that they disclose confidential or exempt information.
Designated Corporate Officer	S100D	Preparation of list of background papers for reports.

<u>Column 1</u> <u>Proper Officer</u>	<u>Column 2</u> <u>Section of</u> <u>1972 Act</u>	<u>Column 3</u> <u>Proper Officers'</u> <u>Functions</u>
Executive Director - Resources	115(2)	Receipt of money due from Officers.
Executive Director - Resources	146(1)(a) and (b)	Declarations and certificates with regard to securities.
Executive Director - Place	191	Functions with respect to ordnance survey.
Head of Paid Service	210(6) and (7)	Charity functions of holders of offices with existing Authorities transferred to holders of equivalent office with new Authorities or, if there is no such office, to Proper Officers.
Monitoring Officer	225(1)	Deposit of documents.
Monitoring Officer	229(5)	Certification of photographic copies of documents.
Monitoring Officer	234(1) and (2)	Authentication of documents.
Monitoring Officer	236(10)	To send copies of byelaws to each District Council in the county.
Monitoring Officer	238	Certification of byelaws.
Head of Paid Service	Schedule 12 Para 4(2)(b)	Signature of summonses to Council meetings.
Head of Paid Service	Schedule 12 Para 4(3)	Receipt of notices regarding address to which summons to meetings is to be sent.
Executive Director - Place	Schedule 16 Para 28	Receipt of deposit of lists of protected buildings (Section 54(4) of the Town and Country Planning Act 1971).
Chief Fire Officer	Schedule 29 Para 41	Exercise of functions under Sections 9(1) and (2), 13(2)(h) and (3)(b) and 20(b) of Registration Services Act 1953 and any

Column 1  
Proper Officer

Column 2  
Section of  
1972 Act

Column 3  
Proper Officers'  
Functions

Regulations or Scheme made  
thereunder.

- 1b Each of the Officers mentioned in Column 1 is the Proper Officer of the Council in relation to the provisions specified against the Officers title in Column 2.

<u>Column 1</u> <u>Proper Officer</u>	<u>Column 2</u>	<u>Column 3</u> <u>Proper Officers'</u> <u>Functions</u>
Monitoring Officer	Local Government Act 2000 S81	Keeping record of disclosures of pecuniary interest under Section 94, and of notices under Section 96(1).
Monitoring Officer	Local Government Act 2000 S81	Receipt of record of interest.
Monitoring Officer	S41(1) and (3) of the Local Government (Miscellaneous Provisions) Act 1976	Certification of resolutions and minutes, etc., for evidential purposes.
Monitoring Officer	S59 of the Highways Act 1980	Certification of extra-ordinary expenses.
Monitoring Officer	S321 of the Highways Act 1980	Authentication of documents.
Executive Director - Place	S295(1) of the Highways Act 1980	Service of notice requiring removal of materials in any street.
Executive Director - Place	Schedule 9 Para 4 of the Highways Act 1980	Prescribing Improvement Lines or Building Lines.
Head of Paid Service	S15 and S16 Local Government and Housing Act 1989	For the purposes of the Local Government (Committee & Political Groups) Regulations 1990.
Monitoring Officer	S18 of the Local Government and Housing Act 1989	For the purposes of the Members' Allowance Scheme.
Monitoring Officer	S19(1)(a) of the Local Government and Housing Act 1989	Receipt of notice of Councillors' interests.
Monitoring Officer	S321 of the Local Government and Housing Act 1989	Deposit of lists of posts politically restricted by virtue of remuneration.

Statutory Scrutiny  
Officer

S31 of the Local  
Democracy, Economic  
and Construction Act  
2009

Promotion of Overview and  
Scrutiny

2. Each of the Officers mentioned in Column 1 is the Proper Officer of the Council in relation to any reference in any legislation (other than the Local Government Act 1972) to the corresponding Officer of a Council (whether specified or not) mentioned in Column 2 which by virtue of any provision of the said Act or of any Order made thereunder is to be construed as a reference to the Proper Officer of the Council.

Column 1

Column 2

Head of Paid Service

Clerk of the Council or Town Clerk of a  
Borough

Executive Director - Resources

Treasurer of a Council

Executive Director - Place

County Surveyor or Surveyor of a  
Council

Head of Paid Service

Clerk to the Fire Authority

3. The Officers mentioned in Column 2 are to act as Proper Officers of the Council in relation to the matters assigned to the corresponding Officer mentioned in Column 1 in the event of that Officer being absent or otherwise unable to act as Proper Officer.

Column 1

Column 2

Head of Paid Service

Such of the Executive Directors, as may  
be nominated by the Head of Paid  
Service

Executive Director - Resources

Assistant Director - Strategic Finance

Executive Director - Place

Assistant Director  
(Highways)

4. The Executive Director - Resources is to have responsibility for the proper administration of the Council's financial affairs in accordance with S151 Local Government Act 1972. The Executive Director - Resources may elect to delegate the day to day responsibilities to the Assistant Director - Strategic Finance.
5. The Executive Director Resources is, under the nomination at 4 above, the Officer responsible under S114 of the Local Government (Finance) Act 1988.



The Executive Director - Resources may elect to delegate the day to day responsibilities to the Assistant Director - Strategic Finance.

## **D GENERAL CONDITIONS APPLYING TO ALL OFFICER DELEGATED POWERS**

1. The powers delegated to Officers shall be exercised in accordance with the:
  - (ii) Rules of Procedure;
  - (iii) Financial Regulations;
  - (iv) Contract Regulations; and
  - (v) Established policies and principlesof the Council as current from time to time.
2. Any decision or action shall comply with all relevant resolutions, orders and directions of the Council, the Executive and of any Committee.
3. Where any matter involves professional or technical considerations within the sphere or competence of another Officer, the Officer taking the decision shall consult with that Officer before authorising action.
4. Delegation to an Officer does not include:
  - (i) any matter reserved to the full Council;
  - (ii) any matter which by law may not be delegated to an Officer;
  - (iii) any matter reserved to a Committee, Sub-Committee or Panel;
5. Without derogating from the discharge of functions under these arrangements Chief Officers shall:
  - (a) Maintain close liaison with the Executive Councillor(s) in whose scope the Chief Officer's functions exist particularly in respect of controversial and sensitive issues.
  - (b) Each Chief Officer shall also maintain close liaison with Councillors representing the political groups in relation to any matter which in the opinion of the Chief Officer may be regarded as sensitive or contentious by any such group. The Chief Officer shall also notify the Executive Councillor and/or Leader of such items and keep them informed of progress.
  - (c) Where a Councillor has made known to a Chief Officer his/her legitimate interest in a matter or where a matter relates to or affects the Councillor's electoral division, the Chief Officer shall consult with that Councillor and shall keep the Councillor informed of significant developments relating to that matter.

6. The existence of a delegation to an Officer shall not require the Officer to take a decision on that issue. Officers need to be aware of particularly controversial issues of concern to the Executive and Committees Panels and Groups of the Council. In such circumstances he/she may refer the matter for guidance or decision by members of the Executive or a Committee Panel or Group of the Council if he/she considers it is appropriate to do so. In so doing the Officer shall advise the Councillors concerned of the extent of his/her delegated powers relating to the matter.
7. The authority conferred upon a Chief Officer may be exercised in his/her absence or at other times by an Officer authorised by the Chief Officer.
8. The Head of Paid Service, in consultation with the Monitoring Officer, shall determine any case in which there is uncertainty whether a Chief Officer is authorised to act under these arrangements.
9. Reference in these arrangements to the discharge of functions of the Council include references to the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of those functions and each Chief Officer is authorised to act accordingly.
10. Chief Officers are responsible within their areas of responsibility for ensuring that in making decisions and delivering services they apply sound risk management principles and practices in accordance with the Council's corporate risk management strategy and that they comply with the obligations and principles of the Council in respect of equality and diversity.

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# **Part 4**

## **RULES OF PROCEDURE**

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## **COUNCIL PROCEDURE RULES**

### **1. SCOPE OF THESE PROCEDURE RULES**

- 1.1 All of the rules set out in these Council Procedure Rules apply to all meetings of the full Council.
- 1.2 None of the rules set out in these Council Procedure Rules apply to meetings of the Executive or Committees of the Executive.
- 1.3 Rules 5–9 inclusive and Rules 12-20 inclusive (but not Rule 19.1) of these Council Procedure Rules apply to meetings of all
  - Overview and Scrutiny Committees as referred to in Article 6
  - Regulatory and Other Committees referred to in Article 7 (but Rules 5 and 9 do not apply to the Health and Wellbeing Board) and
  - Sub-Committees or joint committees or joint panels of any Overview and Scrutiny Committee or Regulatory or other Committee referred to above
- 1.4 Where these Council Procedure rules apply to any other body other than the full Council then in their application to that body the term “Councillor” shall be taken to include any non-elected member of that body.

### **2. ANNUAL MEETING OF THE COUNCIL**

- 2.1 In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 clear working days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (a) elect a person to preside if the Chairman of Council is not present;
- (b) elect the Chairman of Council;
- (c) elect the Vice Chairman of Council;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chairman;
- (f) elect the Leader in accordance with paragraph 5.03 of Article 5;

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*approved version 21.02.20*

- (g) receive from the Leader details of the appointments and delegations made by him/her for inclusion in the Council's Scheme of Responsibility for Functions at Part 3 to this Constitution in accordance with the requirements of the Executive Procedure Rules at Part 4 of this Constitution;
- (h) deal with the matters set out in paragraph 2.2 below;
- (i) approve a programme of ordinary meetings of the Council for the year;
- (j) to agree a scheme for the payment of members allowances in accordance with Regulation 10(1) of the Local Authorities (Members Allowances) Regulations 2003;
- (k) receive the annual review of the Council's Constitution and make amendments if necessary;
- (l) receive Statements/Announcements by the Leader and members of the Executive;
- (m) receive questions to the Chairman, the Leader and members of the Executive, Chairmen of Committees and Sub-Committees; and
- (n) consider any business set out in the notice convening the meeting.

## 2.2 **Selection of Councillors on Committees and outside bodies**

At the annual meeting, the Council meeting will:

- (a) decide which Committees and Sub-Committees to establish for the municipal year;
- (b) decide the size and terms of reference for those Committees and Sub-Committees including reviewing the terms of reference of existing Committees and Sub-Committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) appoint Chairmen and Vice-Chairmen of Committees and Sub-Committees, excluding the Health Scrutiny Committee for Lincolnshire and the Lincolnshire Health and Wellbeing Board;
- (e) receive nominations of Councillors to serve on each Committee, Sub-Committee and outside body; and
- (f) appoint to those Committees, Sub-Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

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### **3. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme 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) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Councillors;
- (d) receive any announcements from the Chairman;
- (e) receive Statement/Announcements by the Leader and Members of the Executive;
- (f) (subject to paragraph 10.2) receive questions to the Chairman, the Leader and Members of the Executive, Chairmen of Committees and Sub-Committees;
- (g) deal with any business from the last Council meeting;
- (h) receive petitions in accordance with Article 2.01(f) of this Constitution
- (i) receive reports from the Executive and the Council's Committees and Panels and receive questions and answers on any of those reports;
- (j) consider motions;
- (k) 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 and reports of the Overview and Scrutiny Committees for debate;
- (l) consider proposals for the appointment of a Select Committee to carry out functions as specified in Article 6 of this Constitution and to appoint such Committee, its members and Chairman and approve its terms of reference; and
- (m) deal with any proposals to create, amend or dissolve any Committee or Sub-Committee, and to decide their size and terms of reference, to decide the allocation of seats in accordance with the political balance rules and to appoint members to those bodies.

## **4. EXTRAORDINARY MEETINGS**

### **4.1 Calling extraordinary meetings**

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; and
- (d) any five Members of the Council 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 seven clear working days of the presentation of the requisition.

### **4.2 Business**

The only business to be conducted at an extraordinary meeting of the Council shall be the business specified in the summons to the meeting.

## **5. APPOINTMENT OF FIXED TERM MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

The Head of Paid Service (or an Officer authorised by the Head of Paid Service to act on his or her behalf) will appoint Councillors to Overview and Scrutiny, Regulatory and other Committees and Sub-Committees in accordance with nominations made to him or her in writing by the appropriate Group Leader, Deputy Group Leader or Group Whip.

The nomination must state that it is the Group's wish that the nominated Councillor sit on the Committee or Sub-Committee

- for that meeting only after which the original member will automatically be re-appointed to the committee or sub-committee or
- for a specified period after which the original member will automatically be re-appointed to the committee or sub-committee or
- until further notice in which case if the originally appointed Councillor is to return to the committee or, sub-committee, he/she will be reappointed by nomination to the Head of Paid Service in accordance with this Rule

To be valid a nomination in accordance with this paragraph 5 must be in the possession of the Head of Paid Service, or an officer authorised by the Head of Paid Service to act on his/her behalf, before the start of the meeting to which the nomination relates.

There cannot be “replacement Members” for Executive Councillors

The Head of Paid Service will not be required to and shall not appoint to the Planning and Regulation Committee, Definitive Map and Statement of Public Rights of Way Sub-Committee or Pensions Committee or Audit Committee any Councillor nominated in accordance with this rule unless that Councillor has undergone the relevant training. Earlier training will be considered to have expired two months after the quadrennial election to the County Council, and only members who have received training after the said election may be appointed to the above bodies.

## **6. TIME AND PLACE OF MEETINGS**

Subject to any other provision of this Constitution, the time and place of meetings will be determined by the Head of Paid Service and notified in the summons.

## **7. NOTICE OF AND SUMMONS TO MEETINGS**

The Head of Paid Service will give notice to the public of the time and place of any meeting of a body to whom these Council Procedure Rules apply in accordance with the Access to Information Rules.

At least five clear working days before any such meeting, Head of Paid Service will send a summons signed by him or her by post to every Councillor and also to any non-elected member of the Council who is a member of the body in question 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.

## **8. CHAIRMAN OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

## **9. QUORUM**

The quorum of a meeting (except for that of the Executive) will be one quarter of the whole number of members of the body concerned (including non-elected members of that body) rounded up to the nearest whole number. For example, the quorum of Lincolnshire County Council while it has 70 seats is 18.

During any meeting if the Chairman counts the number of members (including non-elected members) of the body present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will

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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 body concerned.

## **10. QUESTIONS BY MEMBERS IN FULL COUNCIL**

### **10.1 On reports and recommendations of the Executive or Committees**

A Councillor may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report and recommendations of the Executive or a Committee when that item is being received or under consideration by the Council.

### **10.2 Questions at full Council**

At any meeting of the Council except the meeting to consider the Council's annual revenue budget and capital programme, any Councillor may ask any question of:

- the Chairman;
- the Leader or any other member of the Executive; or
- the Chairman of any Committee or Sub-Committee;
- on any matter in relation to which the Council has powers or duties or which affects the area.
- The Chairman shall ensure that any time set aside for questions at a meeting of the Council includes provision for the asking of questions relating to the Council's obligations as fire authority.

10.3 The Chairman will ask Councillors to indicate whether any Councillor wishes to ask a question of the Leader, an Executive Councillor, Chairmen of Committees and Sub-Committees. The Chairman will then invite those Councillors who have indicated a wish to do so to ask his/her question in turn. The Chairman will then invite the Councillor to whom the question is addressed to respond. This process will continue until the end of the time allowed for questions.

## **11. MOTIONS ON NOTICE IN FULL COUNCIL MEETINGS**

### **11.1 Notice**

Except for motions, which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Monitoring Officer (and a copy to the Democratic Services Manager) no later than noon on the third working day before the meeting. These will open to public inspection.

### 11.2 **Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received. The Councillor who gave notice of the motion may subsequently give notice in writing that they propose to move it to a later meeting or withdraw it. The order in which the motions will be debated will be determined by the Chairman in consultation with the Group Leaders.

### 11.3 **Scope**

- (a) No motion or question shall be put unless it relates to some question over which the Council has power or which affects the County.
- (b) Any Councillor moving a motion or an amendment shall state the reason for it.
- (c) The Chairman may decide whether any particular motion is improper or out of order, and that it should not be included on the agenda for consideration by the Council.

## **12. 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 Panels or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;

- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

## **13. RULES OF DEBATE**

### **13.1 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.

### **13.2 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. The motion or amendment shall include the reasons for it.

### **13.3 Seconders' speech**

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

### **13.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation, point of order or information. A Councillor proposing a motion, including the moving of an amendment, or a Chairman or Executive Councillor responding shall not speak for more than 6 minutes and no other speech shall exceed 3 minutes except with the consent of the meeting.

### **13.5 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) in exercise of a right of reply;
- (b) on a point of order or information; and
- (c) by way of personal explanation.

### 13.6 **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.
- (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 may be moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### 13.7 **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.

### 13.8 **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.

### 13.9 **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.

### 13.10 **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) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

### 13.11 **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) that the question be now put;
  - (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 or she will give the

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mover of the original motion a right of reply and then put the procedural motion to the vote.

- (c) If a motion that the question be now put 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.

#### **13.12 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.

#### **13.13 Point of information**

When a Councillor is speaking, and is obviously proceeding on the basis of information which is wrong, or of which he is ignorant, another Councillor may properly seek to intervene to provide the correct or missing information, thereby saving the Council from being misled and saving its time.

Asking for information is not a Point of Information; a Councillor who has spoken may be able to request a colleague who has not yet spoken to ask.

#### **13.14 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.

### **14. PREVIOUS DECISIONS AND MOTIONS**

#### **14.1 Motion to rescind a previous decision**

No motion or amendment shall be proposed which has the effect or intention of rescinding any resolution passed within the preceding six months, or has the same effect as one which has been negated within the preceding six months unless significant new information has been received.

This Order shall not apply to motions moved in pursuance of the report or recommendation of a Committee or Panel.

## **15. VOTING**

- (a) Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors entitled to vote voting and present in the room at the time the question was put. Subject to Rule 15(b) below, each Councillor entitled to vote shall have one vote.
- (b) 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.
- (c) Every proposition shall be determined by voices or at the discretion of the Chairman by a show of hands.
- (d) Where the decision of the Chairman is challenged upon voices the Chairman shall take a fresh vote by show of hands.
- (e) Where immediately after a vote is taken at a meeting, any Councillor so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that Councillor cast his vote for the question or against the question or whether he abstained from voting.
- (f) At the request of any 14 Councillors at a meeting of the full Council (or 20% of Councillors at any other meeting) who signify their support by rising in their places the voting on any question shall be recorded so as to show how each Councillor present and voting cast his or her vote or if he or she abstains.
- (g) The voting shall be recorded so as to show how each Councillor present and voting cast his or her vote or if he or she abstains after any vote is taken on any decision related to the making of a calculation under sections 42A, 42B, 45 to 49 and 52ZJ of the Local Government Finance Act 1992 or the issuing of a precept under Chapter 4 of Part 1 of that Act at a meeting of the Council at which it makes such a calculation (whether originally or by way of substitute) or issues such a precept.
- (h) Where three or more persons are nominated for any position and there is not a majority in favour of one person, the person having the least number of votes shall be disregarded and a fresh vote taken, and so on, until there is a majority in favour of one person.

## **16. MINUTES**

### **16.1 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.

### **16.2 No requirement to sign minutes of previous meeting at extraordinary meeting of the Council**

Where the next meeting of the Council is an extraordinary or special meeting, the next following meeting shall be treated as a suitable meeting for the purposes of signing of minutes.

### **16.3 Form of minutes**

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

## **17. RECORD OF ATTENDANCE**

A record of Councillors attending a meeting will be kept by the Proper Officer.

## **18. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

## **19. COUNCILLORS' CONDUCT**

### **19.1 Standing to speak**

When a Councillor speaks at full Council 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, a point of personal explanation or a point of information.

### **19.2 Chairman standing**

When the Chairman stands during a debate, any Councillor speaking at the time must stop and in a meeting of full Council sit down. The meeting must be silent.

### 19.3 **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 not be heard further. If seconded, the motion will be voted on without discussion.

### 19.4 **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.

### 19.5 **General disturbance**

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

## **20. DISTURBANCE BY PUBLIC**

### 20.1 **Removal of Members of the Public**

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

### 20.2 **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.

## **21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### 21.1 **Suspension**

All of these Council Procedure Rules except Rule 15(e) 15(f) and 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting.

### 21.2 **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.

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees and Sub-Committees, Regulatory and other committees and public meetings of the Executive (together called meetings).

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. RIGHTS TO ATTEND MEETINGS**

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

### **4. NOTICES OF MEETING**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at County Offices, Newland, Lincoln LN1 1YL - and on the Council's Web-site.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

At least 5 clear working days before the meeting the Council will make copies of the following documents available for inspection by members of the public at County Offices, Newland, Lincoln and publish these documents on the Council's website

- a) the agenda for the meeting; and
- b) any reports which are to be made available to the public in accordance with these procedure rules.

Where the meeting is convened at less than 5 clear working days' notice in accordance with Rule 16 or 17, a copy of the agenda and associated reports will be made available for inspection at the time the meeting is convened.

If an item is added to an agenda after it has been made publicly available, the revised agenda and any report relating to the item for consideration will be made available for inspection from the time the item was added to the agenda.

Where reports are prepared after the summons has been sent out, each such report will be made available to the public as soon as the report is completed and sent to Councillors.

## **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (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 postage and any other costs.

Copies will be freely available on the Council's website

Except during any part of a public meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, 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.

A copy of the minutes of the County Council, the Executive, Committees and Sub-Committees will be available for public inspection at County Offices, Newland, Lincoln on weekdays during office hours. Minutes will also be available on the Council's website, accessible from libraries.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Monitoring Officer will ensure that Officers writing reports comply with their obligations to set out in every report 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) which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political adviser.

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers at County Offices, Newland, Lincoln on weekdays during office hours and these documents will also be available on the Council's website.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents is on the website and is available to the public at County Offices, Lincoln.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings during an item of business 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.

"Confidential" information is

- a) information provided to the Council by a government department on terms which forbid the disclosure of that information to the public; or
- b) information the disclosure of which to the public is prohibited by or under any enactment or by order of a court.

## 10.2 **Exempt information – discretion to exclude public**

The public may by resolution of the meeting concerned be excluded from meetings during an item of business 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.

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.

Exempt information means information falling within one or more of the categories specified in the left hand column of the following table subject to any condition specified in respect of that category in the right hand column of the following table:

### **SCHEDULE 12A**

<b>Description of exempt information</b>	<b>Qualification</b>
1. Information relating to any individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information/
3. Information relating to the financial or business affairs of any particular person including the authority holding that information)	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"><li>(a) the Companies Act 1985</li><li>(b) the Friendly Societies Act 1974</li><li>(c) the Friendly Societies Act 1992</li><li>(d) the Industrial and Provident Societies Acts 1965 to 1978</li><li>(e) the Building Societies Act 1986</li><li>(f) the Charities Act 1993</li></ul>



Description of exempt information	Qualification
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes –  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Proper Officer thinks fit, the Council may exclude access by the public to the whole or any part of reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports (or parts thereof) will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 - 24 apply to the Executive and its Committees. If the Executive or its Committees meet to take a decision then it must also comply with Rules 1 - 11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply.

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### **13. PROCEDURE PRIOR TO A PRIVATE MEETING OF THE EXECUTIVE**

- 13.1 Subject to Rule 13.2, before a decision is taken by the Executive or its Committees to hold a meeting, or part of a meeting, in private i.e. where the public are excluded in accordance with either Rule 10.1 or 10.2 above;
- 13.1.1 A notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private must be made available at County Offices, Newland, Lincoln and be published on the Council's website at least 28 clear days before the meeting; and
- 13.1.2 A further notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private, details of any representations received by the Executive, or its Committees about why the meeting should be open to the public and a statement of response to any such representations must be made available at County Offices, Newland, Lincoln and be published on the Council's website at least 5 clear days before the meeting.
- 13.2 Where the date by which a meeting must be held makes compliance with Rule 13.1 impracticable, then the decision to hold the meeting, or part of the meeting in private, may still be made if the Executive or its Committees obtains the agreement of the Chairman of the relevant Overview and Scrutiny Committee (or in his/her absence, the Chairman of the Council or in his/her absence the Vice Chairman of the Council) that the meeting is urgent and cannot be reasonably deferred PROVIDED THAT as soon as reasonably practicable after such consent is obtained, a notice setting out the reasons why the meeting is urgent and cannot be reasonably deferred must be made available at County Offices, Newland, Lincoln and be published on the Council's website.

### **14. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:

- (a) a notice of the key decision has been published in the forward plan;
- (b) the notice of the key decision referred to in paragraph (a) above has been made available for inspection by the public at County Offices, Newland, Lincoln on weekdays during office hours and on the Council's website for at least 28 clear days; and
- (c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **15. THE FORWARD PLAN OF KEY DECISIONS**

15.1 The forward plan will contain matters which will be the subject of a key decision to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function. It will state the following particulars:-

- (a) That a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision taker is an individual, his/her name and title, if any and, where the decision taker is a body, its name and details of membership;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requested details of those documents (if any) as they become available.

15.2 The forward plan of key decisions must be made available for inspection by the public at County Offices, Newland, Lincoln on weekdays during office hours and on the Council's website at least 28 clear days before a key decision is made.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## **16. GENERAL EXCEPTION**

Subject to Rule 17 (special urgency), where the publication of the intention to make a key decision under Rule 15 is impracticable, then the decision can only be made where:

- (a) the Proper Officer has informed the Chairman of the relevant Overview and Scrutiny Committee, or, if there is no such person each Member of that Committee by notice in writing, of the matter about which the decision is to be made and the reasons why it is impracticable to comply with Rule 15;

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- (b) The Proper Officer has made a copy of that notice available for inspection by the public at County Offices, Newland, Lincoln on weekdays during office hours and on the Council's website; and
- (c) at least five clear days have elapsed since the Proper Officer complied with (b).

## **17. SPECIAL URGENCY**

17.1 Where the date by which a key decision must be made, makes compliance with Rule 16 (general exception) impracticable, the decision may only be made where the decision maker has obtained agreement from:-

- (a) the Chairman of the relevant Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman of the Council; or
- (c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or of the Council, the Vice-Chairman of the Council

that the making of the decision is urgent and cannot reasonably be deferred.

The relevant Chairman or Vice-Chairman must consult with the Leader of the Council or if he cannot act, a Deputy Leader, the relevant Chief Officer or his nominee and the Leader of the Opposition or relevant Shadow Executive Councillor or as many of the above as are available.

The Head of Paid Service or his nominee shall determine which is the relevant Overview and Scrutiny Committee for these purposes. The relevant Chairman or the Vice-Chairman shall consider the advice of the Monitoring Officer and Director of Finance and Public Protection in resolving their view on urgency.

17.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 17.1 that the making of the decision is urgent and cannot be reasonably deferred, the decision maker must make available at County Offices, Newland, Lincoln on weekdays during office hours and on the Council's website a notice setting out the reasons that the making of the decision is urgent and cannot reasonably be deferred.

## **18. REPORT TO COUNCIL**

### **18.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that an Executive decision has been taken which was not treated as being a key decision and the Committee are of the opinion that the decision should have been treated as a key

decision, then the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies.

The requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

Alternatively, the Proper Officer shall by written notice require such a report on behalf of the Committee when so requested by the Chairman or any 5 Members of the Committee.

### **18.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 clear working days of receipt of the written notice from the Proper Officer, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision and the reasons for the decision, the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

### **18.3 Reports on special urgency decisions**

The Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding three months or annually where there have been none. The report will include particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## **19. RECORD OF DECISIONS**

As soon as reasonably practicable after any meeting of the Executive, or any of its Committees, the Proper Officer or, where the Proper Officer was not present, the person presiding at the meeting, will produce a written statement of every decision taken at that meeting. The statement will 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 that meeting at which the decision was made;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

## **20. NOTICE OF MEETINGS OF THE EXECUTIVE**

All Members of the Executive or its Committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned unless the meeting is convened at shorter notice as a matter of urgency.

## **21. ATTENDANCE AT MEETINGS**

Any Councillor may attend any meeting of the Executive, Committees and Sub Committees. That Councillor may speak (but not vote) with the consent which will usually be given by the Chairman of the meeting, except local Councillors who have a right to speak on a matter affecting their division and adjoining divisions.

A Councillor who is not a member of the Committee or Sub Committee may be temporarily excluded from any meeting or part while any particular items of business are dealt with.

- (a) All Executive Councillors will be served notice of all meetings of a Committee of the Executive to consider exempt or confidential items, whether or not they are members of that Committee.
- (b) All Executive Councillors are entitled to attend a meeting of any Committee of the Executive.

### **Overview and Scrutiny Committee Members**

- (a) Notice of meetings of the Executive to consider "confidential" or "exempt" items and its Committees will be served on the Chairmen of all Overview and Scrutiny Committees, at the same time as notice is served on members of the Executive. Where an Overview and Scrutiny Committee does not have a Chairman, the notice will be served on all the members of that Committee.
- (b) Where a matter under consideration is "confidential" or "exempt" at a meeting of the Executive, or a Committee of it and is within the remit of an Overview and Scrutiny Committee, the Chairman of that Committee or in his/her absence the Vice-Chairman may attend that meeting with the consent of the person presiding, and speak if those present agree.

### **Officers**

- (a) The Head of Paid Service, the Executive Director - Resources, the Monitoring Officer and the relevant Chief Officer, and their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.

- (b) A meeting of the Executive to consider “confidential” or “exempt” items may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

## **22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE OR OFFICERS**

### **22.1 Reports intended to be taken into account**

Where an individual Executive Councillor or Officer receives a report which he/she intends to take into account in making a key decision, then he/she will not make the decision until at least five clear days after that report was made publicly available under Rule 22.2 below or would have been made publicly available but for the fact that it contains confidential or exempt information.

### **22.2 Provision of copies of reports to Overview and Scrutiny Committees**

Unless it contains confidential or exempt information the Councillor or Officer making the decision referred to in Rule 22.1 shall ensure that the Proper Officer makes the report available for inspection by the public as soon as is reasonably practicable after that Councillor or Officer receives it.

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee (or where there is no Chairman every member of the Committee) the relevant Shadow Executive Councillor and other group spokesmen as soon as reasonably practicable.

### **22.3 Record of individual decision**

As soon as reasonably practicable after an Executive decision has been taken either by an individual Executive Councillor or by an Officer, he/she will prepare, or (in the case of an individual Executive Councillor instruct the Proper Officer to prepare), a written statement of the decision which shall include a record of the decision including the date it was made, a record of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any Executive Councillor who is consulted by the decision-maker and in respect of any declared conflict of interest a note of any dispensation granted by the Monitoring Officer.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of Executive decisions by individual Executive Councillors and Officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, any member of an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

- (a) any business that has been transacted at any meeting of the Executive or its Committees; or
- (b) any decision taken by an individual Executive Councillor or any Executive decision taken by an Officer;
- (d) Overview and Scrutiny Committees will be entitled to foresight of papers in relation to decisions of the Executive before the decision is made.

Subject to Rule 23.2 below, where a member of an Overview and Scrutiny Committee requests a document which falls within (a), (b) or (c) this must be provided by the Executive as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

### **23.2 Limit on rights**

No Member of an Overview and Scrutiny Committee will 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 any review contained in any programme of work of that Overview and Scrutiny Committee or sub-committee of that Committee; or
- (c) any part of a document that contains the advice of a political adviser.

## **24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **24.1 Material relating to previous business**

Subject to Rule 24.3 and Rule 24.4 any document which is in the possession of or under the control of the Executive and contains material relating to any business transacted at a private meeting of the Executive or its Committees, or any decision made by an individual member or an officer in accordance with executive arrangements must be available for inspection by any member of the Council when the meeting concludes or where an Executive decision is



made by an individual member or an officer immediately after the decision has been made and this must be within 24 hours.

**24.2 Material relating to business to be transacted**

Subject to Rule 24.3 and Rule 24.4 any document which is in the possession of or under the control of the Executive and contains material relating to any business to be transacted at a public meeting of the Executive or its Committees must be available for inspection by any member of the Council for at least 5 clear days before the meeting. Where the meeting is convened at shorter notice any such document must be available for inspection when the meeting is convened and where an item is added to the agenda at shorter notice, any such document must be available for inspection when the item is added to the agenda.

24.3 Rules 24.1 and 24.2 do not require a document to be available for inspection if it appears to the Proper Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (as set out in Rule 10.2 above) unless the document contains exempt information of a description falling within paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) or paragraph 6 of Schedule 12A of the 1972 Act.

24.4 Rules 24.1 and 24.2 do not require any document to be made available for inspection if it appears to the Proper Officer that it discloses the advice of a political adviser.

**24.5. Nature of rights**

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

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

### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

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

### **2. PROCESS FOR DEVELOPING THE BUDGET**

- (a) Details of the Executive's consultation process in relation to the Budget is included in the forward plan and published at the Council's main offices and on the Council's website.
- (b) The Executive carries out consultation in accordance with its published process.
- (c) The Executive publishes initial proposals for the Budget Framework taking into account:-
  - (i) any representations made to the Executive as a result of its consultation; and
  - (ii) the outcome of any relevant review of policy conducted by an Overview and Scrutiny Committee
- (d) The Executive's initial proposals are referred to the relevant Overview and Scrutiny Committee for further advice and consideration taking into account such canvassing of the views of local stakeholders as the relevant Overview and Scrutiny Committee considers appropriate.
- (e) The relevant Overview and Scrutiny Committees respond to the initial proposals of the Executive reporting the outcome of their deliberations.
- (f) The Executive considers the reports of the relevant Overview and Scrutiny Committees and, if it considers it appropriate, amends its proposals.
- (g) The Executive submits its final proposals to the full Council meeting for consideration and in doing so reports to Council on how it has taken into account any recommendations from the relevant Overview and Scrutiny Committees.

### **3. PROCESS FOR DEVELOPING THE POLICY FRAMEWORK**

- (a) The Executive publicise by including in the Forward Plan published at the Council's offices and on its website, a timetable in accordance with

which it will make proposals to the Council for the adoption or amendment of any plan or strategy that forms part of the Policy Framework.

- (b) Within this timetable the relevant Overview and Scrutiny Committees will conduct such research, consultation with stakeholders and investigations as are necessary to enable it to develop proposals for the content or amended content of the relevant Plan or Strategy.
- (c) The relevant Overview and Scrutiny Committee will present recommendations as to the content or amended content of the relevant plan or strategy to the Executive in accordance with the timetable.
- (d) The Executive will finalise its proposals for the Council to consider having taken into account the proposals from the relevant Overview and Scrutiny Committees. The Executive's report to Council will show its response to those proposals.

#### **4. APPROVAL OF THE BUDGET AND THE POLICY FRAMEWORK**

- (a) The Council will consider the proposals of the Executive for the Budget and Policy Framework and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Executive's proposals and any report from any relevant Overview and Scrutiny Committee.
- (b) The Council's decision will be publicised and a copy shall be given to the Leader.
- (c) The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposals without amendment) or (if the Executive's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of 5 clear working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- (d) If the Leader objects to the decision of the Council, he/she shall give written notice to the Head of Paid Service to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Head of Paid Service shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (e) The Council meeting must take place within 20 clear working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

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- (f) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.

## **5. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Subject to the provisions of paragraph 7 (virement) the Executive, Committees of the Executive, individual Members of the Executive and any Officers or joint arrangements discharging Executive functions may only take decisions which are in line with the Budget and the Policy Framework.
- (b) If the Executive, Committees of the Executive, individual Members of the Executive and any Officers or joint arrangements discharging Executive functions want to make a decision which is contrary to the Policy Framework or is contrary to or not wholly in accordance with the Budget approved by full Council, then
  - (i) they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget.
  - (ii) if the advice of either of those Officers is that the decision would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget 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 6 (urgent decisions outside the Budget or Policy Framework) shall apply.
- (c) In determining whether a decision is or would be contrary to or not wholly in accordance with the Budget, regard will be had to the rules as to virement specified from time to time in the Council's Financial Regulations.

## **6. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Executive, a Committee of the Executive, an individual Executive Councillor or Officers or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency and:
  - (i) it is not practical to convene a quorate meeting of the full Council; and
  - (ii) the Head of Paid Service or his nominee, in consultation with

the Leader of the Council or if he cannot act, a Deputy Leader, the Chairman of a relevant Overview and Scrutiny Committee or, if the Chairman cannot act, the Vice-Chairman of a relevant Overview and Scrutiny Committee or if neither can act, a nominee of the Chairman or if he cannot nominate, a nominee of the Vice-Chairman and the relevant Chief Officer or his/her nominee, or

if there is no Chairman or Vice-Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman or Vice-Chairman of each relevant Overview and Scrutiny Committee is unable to act or nominate, then in consultation with as many of the above as are available

considers that the taking of the decision cannot be reasonably deferred.

- (b) The reasons why it is not practical to convene a quorate meeting of full Council and the Head of Paid Service's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- (c) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **7. VIREMENT**

- (a) The Council's Financial Regulations set out the rules for the operation of virement across the budgets allocated for particular functions of the Council.
- (b) Virement in excess of the limits from time to time prescribed for the purposes of the Financial Regulations shall require the prior approval of full Council.

## **8. IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive, a Committee of the Executive, an individual Executive Councillor or Officers or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy, which make up the policy framework, may be made by those bodies or individuals except those changes which are necessary to ensure compliance with the law, ministerial direction or government guidance.

## **9. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Where a relevant Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the

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Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Executive Director - Resources.

- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Executive Director - Resources report shall be presented to the Executive with a copy to every Councillor.
- (c) Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report.
- (d) If the Monitoring Officer or the Executive Director - Resources conclude that the decision was contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's Budget and the decision has been made and implemented in whole or in part, the Executive must submit a report to Council. If the Monitoring Officer or the Executive Director - Resources conclude that the decision was either not contrary to the Policy Framework or contrary to the Council's Budget either in whole or in part, the Executive must submit a report to the relevant Overview and Scrutiny Committee.
- (e) If the decision has yet to be made, or has been made but not yet implemented in whole or in part, and the advice from the Monitoring Officer and/or the Executive Director - Resources is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the relevant Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- (f) The Council shall meet within 20 clear working days of the referral of the matter to it by the Executive or the relevant Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Executive Director - Resources. The Council may either:
  - (i) endorse the decision or proposal 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 Policy Framework or Budget to encompass the decision or proposal 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 Policy Framework or Budget to accommodate the decision or proposal, require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or the Executive Director - Resources.

## EXECUTIVE PROCEDURE RULES

### 1. HOW THE EXECUTIVE OPERATES

#### 1.1 Who may make Executive decisions

The nature, composition and role of the Executive is set out in Article 5. The arrangements for the discharge of Executive functions are set out in Part 3 of this Constitution. The Leader may decide how any functions which fall within the remit of the Executive under the said arrangements are to be exercised. In either case, the arrangements or the Leader may provide for Executive functions to be discharged by:

- (a) the Executive as a whole;
- (b) a Committee of the Executive;
- (c) an individual Member of the Executive;
- (d) an Officer;
- (e) joint arrangements; or
- (f) another local authority.

#### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of the appointments and delegations made by him/her for inclusion in the Council's Scheme of Responsibility for Functions at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and electoral divisions of the people appointed to the Executive by the Leader and their areas of responsibility for the purposes of paragraph 1.3 below;
- (ii) the extent of any limitation on the authority otherwise given to those persons as Executive Councillors under paragraph 1.3 below;
- (iii) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Councillors appointed to them (to be published within five clear working days of the decision to establish the Committee);



- (iv) the nature and extent of any delegation of Executive functions to area Committees, any other authority or any joint arrangements and the names of those Executive Councillors appointed to any joint Committee for the coming year;
- (vi) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made; and
- (vii) details of any ad hoc or additional Committees, including their terms of reference.

### 1.3 **Delegation of Executive functions to individual Executive Councillors**

- (a) Each Executive Councillor who is allocated responsibility for particular portfolios by the Leader pursuant to paragraph 1.2 above shall, subject always to sub-paragraphs (b) to (e) below, have delegated authority to exercise Executive functions in relation to and to take decisions on matters which fall within their area of responsibility as defined by the Leader under paragraph 1.2 above.
- (b) Any decision which will result in a recommendation or proposal to full Council shall only be taken by the Executive as a whole and may not be taken by an individual Executive Councillor or Officer.
- (c) Any decision falling within any of the following categories shall be taken by the Executive as a whole and may not be taken by an individual Executive Councillor a Committee of the Executive or an Officer or under joint arrangements unless it is delegated to that Executive Councillor Committee Officer or joint arrangements after consideration by the full Executive
  - (i) a decision on a matter that is cross cutting and affects the area of responsibility of more than one Executive Councillor unless the decision falls within an area of responsibility of an Executive Councillor which is itself cross-cutting in which case the decision can be taken by the Executive Councillor concerned;
  - (ii) a decision that the Leader has decided should be referred to full Executive.
- (d) An Executive Councillor shall not exercise a function expressly delegated to a Chief Officer under Part 3 of the Constitution or under the arrangements reported by the Leader to full Council under paragraph 1(a) above save that a Chief Officer may refer an executive matter within his or her delegation for a decision to an Executive Councillor or full Executive.

- (e) If an Executive Councillor wishes to take a decision against Officer advice, the Executive Councillor must make their recommendations to the full Executive for confirmation or otherwise.
- (f) An Executive Councillor may refer any matter within their delegated authority to the full Executive for decision.
- (g) Decisions taken by an individual Executive Councillor will comply with Rule 21 of the Access to Information Procedure Rules.
- (h) Decisions by Executive Councillors will only be taken after confirmation by the appropriate Chief Officer that the Chief Officer had received appropriate advice from the Monitoring Officer, the Executive Director - Resources and the Head of Paid Service.
- (i) Nothing in the preceding sub-paragraphs in this paragraph 1.3 shall affect or detract from the authority of an individual Executive Councillor to exercise any function which is conferred directly on that Executive Councillor by any provision of this Constitution and any such authority shall not require any delegation from the Leader.

#### 1.4 **Sub-delegation of Executive functions**

- (a) Where the Executive, a Committee of the Executive or an individual Executive Councillor is responsible for an Executive function, they may delegate further to joint arrangements or an Officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive, an individual Executive Councillor or to an Officer.
- (c) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader may delegate further to an Officer.
- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### 1.5 **The Council's scheme of Responsibility for Functions and Executive functions**

- (a) Subject to (b) below the Council's Scheme of Responsibility for Functions will be subject to adoption by the Council and may only be amended by the Council who will review it annually in the annual Council Meeting. It will contain the details required in Article 5 and set out in Part 3 of this Constitution.

- (b) 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 Proper Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Executive as a whole. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from an Executive Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.

#### 1.6 **Conflicts of interest**

- (a) Where the Leader has a conflict of interest, this should be dealt with as set out in the Member's Code of Conduct in Part 5 of this Constitution.
- (b) If any Member of the Executive has a conflict of interest, this should be dealt with as set out in the Member's Code of Conduct in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Councillor or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Member's Code of Conduct in Part 5 of this Constitution.

#### 1.7 **Executive meetings – when and where?**

The Executive will meet as and when necessary at times to be agreed by the Leader. The Executive will meet at County Offices, Newland, Lincoln or, exceptionally, at another location to be agreed by the Leader of the Council.

#### 1.8 **Public or private meetings of the Executive**

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings. Other than the legal requirements, consideration should also be given to any principles of decision-making set out in Article 10 of this Constitution.

#### 1.9 **Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be 4 including the Leader or deputy Leader.

### 1.10 **How decisions are to be taken by the Executive**

- (a) Executive decisions which have been delegated to or are to be taken by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

## **2. HOW THE EXECUTIVE MEETINGS ARE CONDUCTED**

### 2.1 **Who presides**

The Leader will preside. In the absence of the Leader, the Deputy Leader will preside.

### 2.2 **Who may attend**

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

### 2.3 **What business**

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Executive (whether by an Overview and Scrutiny Committee or Panel or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Committees and Panels; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## 2.4 **Consultation**

All reports to the Executive from any Executive Councillor or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 **Setting the Executive agenda**

- (a) The Leader of the Council, after consultation with the Proper Officer, will decide upon the calendar and agenda for the meetings of the Executive. The Proper Officer will comply with the Leader's requests in this respect.
- (b) Any Executive Councillor may request the Leader of the Council to arrange for an item to be placed on the agenda of the next available meeting of the Executive for consideration.
- (c) An item will be placed on the agenda of the next available meeting of the Executive where a relevant Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.
- (d) The Monitoring Officer and/or the Chief Financial Officer may require the Proper Officer to include an item for consideration on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. SCOPE**

These procedure rules shall apply to the Overview and Scrutiny Committees.

### **2. MEMBERSHIP OF OVERVIEW AND SCRUTINY COMMITTEES**

All Councillors except Executive Councillors may be members of an Overview and Scrutiny Committee. No Councillor may be involved in scrutinising a decision in which he/she has been directly involved. Executive Support Councillors may not be members of an Overview and Scrutiny Committee relating to their portfolio area.

### **3. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES**

The County Council will determine an annual programme of meetings for Overview and Scrutiny Committees. Any variation to the published dates and times for meetings shall be agreed by the Chairman or by the Committee itself.

A special meeting of the Overview and Scrutiny Management Board may take place if there is any matter called-in for the Board to consider.

Extraordinary meetings of any of the Overview and Scrutiny Committees may be called from time to time as and when appropriate by the Chairman, by any five Members of the Committee or by the Proper Officer, if the Proper Officer considers it necessary or appropriate.

### **4. QUORUM**

The quorum for the Overview and Scrutiny Committees is set out in the Council Procedure Rules in Part 4 of this Constitution.

### **5. CHAIRMEN OF OVERVIEW AND SCRUTINY COMMITTEES, SCRUTINY PANELS AND SCRUTINY SUB GROUPS**

- (A) The County Council will appoint the Chairmen and the Vice-Chairmen of the Overview and Scrutiny Committees from amongst the Councillors sitting on the relevant Committee, except for the Health Scrutiny Committee for Lincolnshire.
- (B) The Health Scrutiny Committee for Lincolnshire will appoint its own Chairman and Vice-Chairman.

- (C) The County Council will appoint the Chairmen and the Vice-Chairmen of the Scrutiny Panels.
- (D) The Chairmen and the Vice-Chairmen of the Corporate Parenting Sub-Group and the Safeguarding Boards Scrutiny Sub-Group will be appointed by the respective Sub-Group at its first meeting in each municipal year.

## **6. WORK PROGRAMME**

### **(A) Annual Work Programme / Annual Report**

The Overview and Scrutiny Management Board will submit an annual work programme for the other Overview and Scrutiny Committees for approval by the County Council at its annual meeting, except for the years when elections are held. In years when elections are held, the Overview and Scrutiny Management Board will submit an annual work programme to the first appropriate meeting after the County Council's annual meeting.

The Overview and Scrutiny Management Board may submit an annual report on overview and scrutiny to the County Council at its annual meeting, except for the years when elections are held, which will cover the work of the preceding year and an outline of work for the forth coming year. In years when elections are held, the Overview and Scrutiny Management Board may submit an annual report to the first appropriate meeting after the annual meeting.

### **(B) Content of the Annual Work Programme**

The annual work programme will set out for each Committee the principal activities to be undertaken by each Overview and Scrutiny committee in the forthcoming year and will include topics for scrutiny review and report.

### **(C) Developing the Annual Work Programme**

In developing the annual work programme, the Overview and Scrutiny Management Board will need to take account the views of the following: -

- Overview and Scrutiny Committees, with a view to taking account the views of members who are not County Councillors;
- an Annual Overview and Scrutiny Workshop;
- the Executive; and
- partner organisations (where these are relevant).

## **7. AGENDA ITEMS**

### **(A) General Provision**

Any member of an Overview and Scrutiny Committee is entitled to give notice that he/she wishes an item relevant to the functions of the Committee to be

included on the agenda for the next available meeting of the Committee. On receipt of such a request, the item will be included on the next available agenda.

To support the effective conduct of business at meetings, before putting forward an item for an agenda, a member should:

- research background information;
- consult relevant officers;
- consult the relevant Executive Councillor(s);
- consult the Chairman of the Overview and Scrutiny Committee; and
- produce a written report or note.

Items put forward should have broad community interest or significance or raise issues of policy. Matters of individual complaint should generally be pursued through the Council's complaints system prior to considering whether they raise issues for an Overview and Scrutiny Committee.

(B) Councillor Call for Action (General Matters)

(a) Any councillor may submit a request for a Councillor Call for Action in accordance with the provisions set out in these paragraphs. A Councillor Call for Action may be included on the agenda of the Overview and Scrutiny Management Board, if all the following conditions are met:

- (1) The Councillor Call for Action must relate to a local government matter, which is defined as a function for which the County Council is responsible. Where the Councillor Call for Action relates to a crime and disorder matter, the provisions of Part (C) apply. The Councillor Call for Action cannot relate to an excluded matter, ie not a crime or disorder matter or anything specified in an order by the Secretary of State.
- (2) The Councillor Call for Action must relate to an issue of neighbourhood concern and be limited to all or part of the electoral division which the Councillor submitting the request represents.
- (3) The Councillor Call for Action request cannot relate to a matter which could be subject to the County Council's complaint process. The Councillor Call for Action request cannot relate to a licensing or planning appeal, where alternative means of resolution are available.
- (4) The Councillor submitting the Councillor Call for Action must submit evidence that all other means of resolving the matter have been explored, in accordance with guidance issued by the Overview and Scrutiny Management Board.
- (5) The Councillor Call for Action should not have been considered under the Councillor Call for Action procedure in the previous six months prior



to the date of the submission of the Councillor Call for Action request. Taking account of the above provisions in paragraphs (1) – (5) above, the Head of Paid Service will determine whether the Councillor Call for Action is to be included on the agenda of the next available meeting of the Overview and Scrutiny Management Board. If the Head of Paid Service rejects the Councillor Call for Action request, this will be reported to the next meeting of the Overview and Scrutiny Management Board.

- (b) Where the Overview and Scrutiny Management Board considers a request, it will provide advice to the relevant Overview and Scrutiny Committee, in terms of what further action should be taken on the request. The relevant Overview and Scrutiny Committee will then consider the request and the advice from the Overview and Scrutiny Management Board, prior to making a determination on the request. The relevant Overview and Scrutiny Committee will determine what action to take and notify the Councillor of its decision and the reasons for it.

(C) Councillor Call for Action (Local Crime and Disorder Matters)

- (a) Any councillor may submit a request for a Councillor Call for Action relating to a local crime and disorder matter in accordance with the provisions set out in these paragraphs. A Councillor Call for Action may be included on the agenda of the Communities and Public Protection Scrutiny Committee, if all the following conditions are met:

- (1) The Councillor Call for Action must relate to a local crime and disorder matter, which is defined in paragraph (c) below.
- (2) The Councillor Call for Action request cannot relate to a matter which could be subject to the County Council's or another public authority's complaint process. The Councillor Call for Action request cannot relate to a licensing or planning appeal, where alternative means of resolution are available.
- (3) The Councillor submitting the Councillor Call for Action must submit evidence that all other means of resolving the matter have been explored, in accordance with guidance issued by the Overview and Scrutiny Management Board.
- (4) The Councillor Call for Action should not have been considered under the Councillor Call for Action procedure in the previous six months prior to the date of the submission of the Councillor Call for Action request.

Taking account of the above provisions in paragraphs (1) – (4) above, the Head of Paid Service will determine whether the Councillor Call for Action is to be included on the agenda of the next available meeting of the Committee. If the Head of Paid Service rejects the Councillor Call for Action, this will be reported to the next meeting of the Communities

and Public Protection Scrutiny Committee for information.

- (b) Where the Communities and Public Protection Scrutiny Committee considers a request, it will determine what action to take and notify the Councillor of its decision and the reasons for it.
- (c) A Local Crime and Disorder Matter is defined as
  - (i) crime and disorder (including particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or
  - (ii) the misuse of drugs, alcohol and other substances,which affects all or part of the Councillor's electoral division or any person who lives or works in the electoral division.

## **8. POLICY REVIEW AND DEVELOPMENT**

- (A) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (B) In relation to matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (C) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask contributors to attend to address them on any matter under consideration and may pay any advisers, assessors and contributors a reasonable fee and expenses for doing so. Any expenditure must be properly budgeted for and approved by the Executive Director - Resources.

## **9. SCRUTINY REVIEWS**

- (A) Each Overview and Scrutiny Committee may propose topics for detailed scrutiny review, with reference to any approved scrutiny prioritisation toolkit. The Overview and Scrutiny Management Board will consider and determine whether a scrutiny review will proceed. Where the Overview and Scrutiny Management Board determines that a scrutiny review will proceed, it will refer the review to a Scrutiny Panel, which will conduct the review on behalf of the relevant Overview and Scrutiny Committee.
- (B) Scrutiny Panels will normally consist of no more than eight members

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(Including the Chairman and the Vice-Chairman, and any representatives appointed pursuant to paragraphs (D) and (E) below). Replacement members will be permitted at meetings of Scrutiny Panels, with the exception of meetings of Scrutiny Panels at the concluding stages of a scrutiny review, where replacement members should only be permitted under the guidance of the Chairman.

- (C) A Non-Executive Councillor who is not a member of the relevant Overview and Scrutiny Committee may serve on a Scrutiny Panel. Except for the Chairmen and the Vice-Chairmen of each Scrutiny Panel, who are appointed by the County Council, the size and membership of each Scrutiny Panel conducting a specific review will be determined by the Chairman and the Vice-Chairman of the Overview and Scrutiny Management Board, in consultation with the Chairman and the Vice-Chairman of the relevant Overview and Scrutiny Committee. To facilitate this approach, each group leader may nominate non-executive councillors from their group to serve on the Scrutiny Panel for each review.
- (D) As far as possible, the membership of Scrutiny Panels should be inclusive of each political group of the County Council.
- (E) Where a Scrutiny Panel is conducting a scrutiny review on behalf of the Health Scrutiny Committee for Lincolnshire, one or more district council representatives from the Committee may be appointed to the Scrutiny Panel, provided that the overall membership of the Panel should not exceed eight members.
- (F) Where a Scrutiny Panel is conducting a scrutiny review on behalf of the Children and Young People Scrutiny Committee, one or more parent governor or church representatives from the Committee may be appointed to the Scrutiny Panel, provided that the overall membership of the Panel should not exceed eight members.
- (G) Each Scrutiny Panel, on completion of their review, will compile a draft report, which will be submitted to the relevant Overview and Scrutiny Committee for approval and onward referral, as appropriate.

## **10. SCRUTINY REVIEW REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES**

Once an Overview and Scrutiny Committee has approved a scrutiny review report, with recommendations, it will submit the report and its recommendations to the relevant decision maker or decision makers.

## **11. CONSIDERATION OF SCRUTINY REPORTS BY THE EXECUTIVE**

- (a) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Executive or the

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relevant Executive Councillor and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council.

- (b) Where reports are referred to the Executive, Executive Councillor or the Council, they must, within 2 months of the date notice is received from the Overview and Scrutiny committee, consider the report or recommendations and respond to the Overview and Scrutiny committee indicating what, if any, action the Executive or Council propose to take.
- (c) Where the Overview and Scrutiny Committee has published their report, the Executive, Executive Councillor or the Council must publish their response.
- (d) If the Overview and Scrutiny Committee provide a copy of their report or recommendations to any member of the Council a copy of the response must also be provided to that member.
- (e) The Council, Executive or Executive Councillor must respond within two months of receipt of the report.
- (f) Overview and Scrutiny Committees will in any event have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

## **12. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, members of an Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

## **13. COUNCILLORS AND OFFICERS GIVING ACCOUNT**

- (a) Any Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions in accordance with the role and function of each Overview and Scrutiny Committee as set out in Article 6 of this Constitution. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Executive Councillor, the Head of Paid Service and/or any Officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance;

and it is the duty of those persons to attend if so required.

Overview and Scrutiny Committees are encouraged to invite attendance of Executive Councillors for appropriate items.

- (b) Where any Councillor or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Proper Officer. The Proper Officer shall inform the Councillor or Officer in writing giving at least five clear working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Councillor or Officer, arrange an alternative date for attendance.

#### **14. ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Councillors and Officers in other parts of the public sector and shall invite such people to attend.

#### **15. CALL IN**

- (a) This paragraph applies to decisions made by the Executive, an Executive Councillor or a Committee of the Executive, or a key decision made by an Officer with delegated authority from the Executive or under joint arrangements except such decisions as are referred to in paragraph (i) below ("a relevant decision"). A relevant decision shall be published, where possible, by electronic means and shall be available at the main offices of the Council normally within two clear working days of being made. Chairmen of all Overview and Scrutiny Committees and opposition spokesmen will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (b) A notice of a relevant decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented at any time after 5.00 pm on the third clear working day after the date of publication of the decision, unless it is called in in accordance with these procedure rules. The period between publication and 5.00 pm on the third clear working day after the date of publication is called “the call-in period”.
- (c) During the call-in period a relevant decision may be called in for scrutiny by the Overview and Scrutiny Management Board if requested by
  - (i) The Chairman or Vice-Chairman of the Overview and Scrutiny Management Board provided the provisions of paragraph (d) below have been complied with; or
  - (ii) Three Councillors whose requests have each met the requirements in paragraph (e)

provided in either case that the request complies with the requirements of paragraph (e) below. In the case of education matters the non-Councillor voting members of the Children and Young People Scrutiny Committee shall be counted as Councillors for the purpose of subparagraph (ii) above.

- (d) The Chairman and Vice-Chairman of the Overview and Scrutiny Management Board can call-in any decision by the full Executive if and only if the Chairman and/or Vice-Chairman give notice to the Proper Officer by 5.00 pm on the day before the Executive meeting that they are minded to call-in a decision of the Executive under this paragraph. The Proper Officer shall notify the Leader of the Council that the Chairman and/or Vice-Chairman are minded to call-in a proposed Executive decision as soon as is practicable and in any event no later than at the start of the meeting of the Executive at which the relevant item of business is to be considered.
- (e) The call-in requests shall be sent or delivered to the Proper Officer and shall comply with the following requirements:
  - (i) The requests must be in such form as the Head of Paid Service shall from time to time require;
  - (ii) The forms must specify the decision to be called-in;
  - (iii) The forms must state the reasons for the call-in and the reasons must not be invalid in accordance with paragraph (f) below;
  - (iv) There must be at least two other valid call-in requests from other Councillors specifying the same reason for the call-in; and

- (v) The forms must be received prior to the expiration of the call-in period.
- (f) A reason for call-in shall not be valid if:-
- (i) the reason for call-in does not relate directly to the decision;
  - (ii) the reason for call-in is answered by information already to be found in the Report relating to the decision;
  - (iii) the reason for call-in is to obtain information which does not directly relate to the reasons for taking the decision which is being called in;
  - (iv) the reason for call-in relates to a decision which is yet to go to statutory consultation. However, the reason for call-in may be valid if it relates to the basis of or criteria for the consultation;
  - (v) the reason for call-in relates to a previous policy or strategy decision which has been subject to the call-in process within the previous six months.
- (g) The Head of Paid Service shall only permit the call-in if in consultation with the Chairman and Vice-Chairman of the Overview and Scrutiny Management Board shall determine whether the request meets the requirements of paragraphs (e) and (f). The Head of Paid Service shall not call-in any decision if the request does not so comply. If a call-in is rejected as inappropriate the signatories will be advised of the decision and the reason for it. The Board will be informed at its next meeting. Where the Head of Paid Service is satisfied that a request complies with paragraphs (e) and (f) he shall certify the decision as being called-in for scrutiny by the Overview and Scrutiny Management Board and notify the decision taker of the call-in. The date of the Head of Paid Service's certification shall be the date of call-in for the purposes of paragraph (m)
- (h) Any decision called in under paragraph (g) above will be referred by the Proper Officer to a meeting of the Overview and Scrutiny Management Board on such date as shall enable the Board to consider the call-in within the period specified in paragraph (m). If the next scheduled meeting of the Overview and Scrutiny Management Board does not meet this requirement a special meeting shall be called. The Access to Information Procedure Rules shall apply to such meeting.
- (i) The following decisions shall not be relevant decisions and are therefore not subject to call in:
- (i) Matters to be determined by the Council.
  - (ii) Recommendations from the Executive to Council.

- (iii) Urgent decisions taken pursuant to Rule 16 of the Access to Information Procedure Rules and any other item without a decision reference.
- (iv) Decisions made by the Regulatory and other Committees in Article 7 and the Standards Committee.
- (v) Decisions made on the recommendation of a Best Value Review.
- (vi) Decisions which have been considered by the Overview and Scrutiny Committees within the preceding six months.
- (vii) Where a decision, in order to take effect, must be implemented by such a date ("the deadline date") that a call-in could not reasonably be considered by the Overview and Scrutiny Management Board and the decision be reconsidered by the decision-maker prior to the deadline date.

The Head of Paid Service or his nominee in consultation with the Chairman or Vice Chairman of the Overview and Scrutiny Management Board and the Leader of the Opposition or the relevant Shadow Executive Councillor or in their absence their nominees shall determine whether a decision falls outside the remit of call-in under paragraph 15(i)(vii) above and where he determines that a decision does fall outside the remit of call-in under that paragraph shall certify to that effect in writing prior to the decision being taken.

- (j) Recommendations from the Executive to Council, any urgent decision taken pursuant to Rule 17 of the Access to Information Procedure Rules and any other item without a decision reference are not subject to call in under sub-paragraph (c) above.
- (k) The Leader, the Deputy Leader, relevant Executive Councillor and those members who instigated the call-in may attend and participate in the Overview and Scrutiny Management Board for an item called in.
- (l) If, having considered the decision, the Overview and Scrutiny Management Board is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council if considered not to be in accordance with the budget or policy framework. If referred to the decision maker, they shall then reconsider within a further 10 clear working days, amending the decision or not, before adopting a final decision.
- (m) If, following a call-in of a decision, the Overview and Scrutiny Management Board either:



- (i) meets to consider the call-in within 18 clear working days of the date of call-in and resolves not to object to the decision; or
- (ii) does not meet within 18 clear working days of the date of call-in or otherwise does not resolve to object to the decision within 18 clear working days of the date of call-in

the decision shall take effect.

- (n) If the matter was referred to full 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, then
  - (i) if the decision was contrary to the policy framework, or contrary to or not wholly consistent with the budget the decision will not be implemented; or
  - (ii) if the decision was not contrary to the policy framework, or contrary to or not wholly consistent with the budget the Council will refer the decision to which it objects back to the decision-making person or body, together with the Council's views on the decision.

Where the Council refers a decision back to the decision-making person or body, that decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of it, a meeting will be convened to reconsider within 15 clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 clear working days of the Council request.

- (o) If the Council does not meet within 20 clear working days of the referral of a decision to it by the Overview and Scrutiny Management Board, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (p) The call in procedure set out above shall not apply where the decision being taken by the Executive is urgent under Rule 16 of the Access to Information Procedure Rules. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call in. The provisions of the Access to Information Rules must be complied with in relation to any urgency decisions. The decision as to whether an item is urgent should be taken following consideration of advice from the Monitoring Officer and Section 151 Officer. Decisions taken as a matter of urgency must be

reported to the next available meeting of the Overview and Scrutiny Management Board, together with the reasons for urgency.

- (q) The operation of the provisions relating to call in and urgency shall be monitored annually, and a report submitted by the Monitoring Officer to Council with proposals for review if necessary.

## **16. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

- (a) Overview and Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interests (when each item is under consideration);
  - (iii) responses of the Committee to reports to the Committee; and
  - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Where an Overview and Scrutiny Committee conducts investigations (e.g. to review the Council's performance with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - (i) The investigation be conducted fairly and all members of the Committee will be given the opportunity to ask questions of attendees, and to contribute and speak.
  - (ii) Those assisting the Committee by giving evidence will be treated with respect and courtesy.
  - (iii) The investigation will be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee may prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.
- (d) Overview and Scrutiny Committees will conduct their business and act in accordance with the expectations of Overview and Scrutiny set out in Part 5 of the Constitution.

## **17. WORKING GROUPS AND WORKSHOPS**

- (A) Overview & Scrutiny Committees may appoint time limited working groups to undertake specific tasks in relation to a matter within the remit of the Committee, provided that each Overview and Scrutiny Committee has no

more than two working groups in operation at any one time. Where a working group proposes to meet on more than three occasions, the Committee will seek approval from the Overview and Scrutiny Management Board. The working group may include other members of the County Council, who are not members of the appointing Committee. Tasks undertaken by working groups could include research, analysis, supporting officers writing reports, information gathering, drafting responses to consultations, including interviewing experts or witnesses. An Overview & Scrutiny Committee must have regard to the level of officer support and other resources required when appointing a working group. The outcomes of each working group will be reported to the relevant Overview and Scrutiny Committee for consideration and approval, where approval is required.

- (B) Overview & Scrutiny Committees may make arrangements to hold workshop meetings to support the activities of the Overview and Scrutiny Committee. Workshop meetings would be open to all members of the Overview and Scrutiny Committee, and also be open to other members of the County Council.

## **18. OVERVIEW AND SCRUTINY – ATTENDANCE OF OFFICERS**

Overview and Scrutiny Committees have the power to require Officers to attend meetings to provide information, advice and to answer questions. In some cases this may require Junior Officers to attend. Members of Committees should recognise that such Officers may not be experienced in dealing with Committees and should treat the Officer accordingly.

## **18. THE CHIEF WHIP**

The Council will appoint a non-Executive Councillor to be designated Chief Whip for the Council whose functions will be:

- (a) To liaise and consult with the Whip or other nominated Councillor in each of the political groups as defined in the Local Government and Housing Act 1989 and with the Proper Officer in order to carry out these functions
- (b) To ensure that the Overview and Scrutiny members are aware of the requirements of the Members Code of Conduct in relation, in particular, to the declarations of interest in relation to overview and scrutiny functions and that they take whatever steps are necessary to ensure that the requirements of the Code of Conduct are adhered to.
- (c) To facilitate the effective conduct of the Overview and Scrutiny activities by the Overview and Scrutiny Committees.
- (d) In consultation with relevant Group Leaders or other Group Councillors, to facilitate the replacement of members on Overview and Scrutiny Committees and to notify Group Leaders or their nominees and individual Councillors where a conflict of interest may exist.

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# ***FINANCIAL REGULATIONS AND PROCEDURES***

## Financial Regulations for Lincolnshire County Council

### Background

- A: Roles in Financial Management
- B: Financial Planning and Management
- C: Risk Management and Internal Control
- D: Accounting Records and Financial Systems
- E: Control of Resources and Assets
- F: Income and Expenditure
- G: External Arrangements
- H: Revisions and amendments

### Appendix A: Index of Financial Procedures

## **1. BACKGROUND**

- 1.1 Lincolnshire County Council is one of the largest local authorities in England. It provides a diverse range of services to its residents. It works in partnership with district, parish and town councils, police, probation and health providers and a number of other organisations.
- 1.2 Lincolnshire County Council's governance structure is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are followed. This document forms part of the Constitution.
- 1.3 These Financial Regulations form part 4 of the Council's Constitution and when applying the regulations must be read alongside the Council's Contract Regulations (part 4 of the Constitution) and other approved policy documents and scheme of delegation.
- 1.4 The Authority has adopted a Leader and cabinet form of Executive.
- 1.5 For the purposes of this document the term Chief Officer includes the Head of Paid Service, Chief Officers and the Chief Fire Officer.

## **2. FINANCIAL REGULATIONS**

- 2.1 Financial Regulations provide the framework for managing the financial affairs of Lincolnshire County Council. They apply to every Councillor and Officer of the Council and anyone acting on its behalf. Financial Regulations must be adhered to at all times. All Chief Officers are accountable to the Council's Section 151 Officer for compliance with these rules. The Section 151 Officer is accountable to the Council. All Officers with delegated responsibility for undertaking financial responsibility are accountable to their Chief Officer for compliance with the Financial Regulations.
- 2.2 The regulations identify the financial responsibilities of the full Council, Executive and Overview and Scrutiny Councillors, the Head of Paid Service (Chief Executive), the Monitoring Officer, the Section 151 Officer, other Chief Officers and other Officers. Executive Councillors and Chief Officers should maintain a written record where decision making has been delegated to Members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible Officers, such as school governors, references to the Chief Officer in the regulations should be read as referring to them.
- 2.3 All Councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.

- 2.4 Should a material breach of the Financial Regulations come to light then it must be reported immediately to the Section 151 Officer. The Section 151 Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the full Council for approval. The Section 151 Officer is also responsible for reporting material breaches of the Financial Regulations to Chief Officers, the Executive or the full Council as appropriate according to the severity of the breach.
- 2.5 The Section 151 Officer is responsible for maintaining Lincolnshire County Council's Financial Procedures which set out in detail how the Financial Regulations will be implemented. The Section 151 Officer may amend the Financial Procedures so long as the Financial Procedures remain consistent with the Financial Regulations. A full index of Financial Procedures is contained as Appendix A to the Financial Regulations alongside an overview of their structure, content and purpose.
- 2.6 Chief Officers are responsible for ensuring that all staff in their directorates are aware of the existence and content of these Financial Regulations, Financial Procedures and other internal regulatory documents and that they comply with them. They must also ensure that there is adequate access to the current version of these documents.
- 2.7 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Councillors, Officers and others acting on behalf of the Council are required to follow.

## **FINANCIAL REGULATION A: ROLES IN FINANCIAL MANAGEMENT**

### **INTRODUCTION**

- A.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

### **THE FULL COUNCIL**

- A.2 The full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the Budget and Policy Framework within which the Executive operates. It is also responsible for ensuring compliance with the Budget and Policy Framework. The full Council may make decisions outside the Budget and Policy Framework in accordance with paragraph 5 of the Budget and Policy Framework Procedure Rules at part 4 of the Constitution.
- A.3 By approving the Constitution the full Council has identified the responsibility for decision making. Details of who has responsibility for which decisions are set out in the Constitution.

### **THE EXECUTIVE**

- A.4 The Executive is responsible for proposing the Budget and Policy Framework to the full Council and for discharging executive functions in accordance with the Budget and Policy Framework.
- A.5 Executive decisions can be delegated to, an individual Executive Councillor, or a Chief Officer.
- A.6 The Executive is responsible for establishing protocols to ensure that individual Executive Councillors consult with relevant Officers before taking a decision within their delegated authority. In doing so, the individual Executive Councillor must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### **OVERVIEW AND SCRUTINY COMMITTEES AND PANELS**

- A.7 The Overview and Scrutiny Committees are responsible for scrutinising Executive decisions before or after they have been implemented and for holding the Executive to account.
- A.8 The scope of Overview and Scrutiny Committees are set out in Article 6 of the Constitution.

### **Audit Committee**

- A.9 The functions of the Audit Committee are set out in full in the Council's

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Constitution. However, in summary, the Committee's responsibilities around the financial management of the Council include:

- i. Approving the Council's Annual Statement of Accounts and consider the effectiveness of the Council's arrangements to secure value for money.
- ii. Considering the Council's arrangements for governance and risk management and the internal control environment. Ensuring that its assurance framework adequately addresses the risks and priorities of the Council.
- iii. Approve an annual governance statement, prepared in accordance with proper practices in internal control.
- iv. Considering and commenting on the External Auditor's Annual Audit Letter and reports about the effectiveness of the Council's financial and operational arrangements.
- v. Ensuring that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit is actively promoted.
- vi. Approving the annual Internal Audit plan, and receiving reports from the Council's Internal Auditor, including the annual report of the Head of Internal Audit.
- vii. Monitoring the effectiveness of the Council's Financial Regulations, Procurement Policy and Procedures and other strategies for counter fraud and anti-bribery, whistle blowing and anti-money laundering.

## **THE STATUTORY OFFICERS**

The Statutory Officers have responsibilities that lie within the Financial Regulations. These are set out below. The full scope of responsibilities for these Officers are contained within Article 10 of the Constitution.

### **Head of Paid Service (Chief Executive)**

A.10 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Executive, the full Council, the Overview and Scrutiny Committees and Panels, other Committees and Groups and is responsible for supporting all Councillors and non-elected members of the Council. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for

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the system of record keeping in relation to all the full Council's decisions.

### **Monitoring Officer**

- A.11 The Monitoring Officer is responsible for advising all Councillors and non-elected members and Officers about who has authority to take a particular decision.
- A.12 The Monitoring Officer together with the Section 151 Officer is responsible for advising the Executive or full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the Budget and Policy Framework. Actions that may be contrary include:
- Initiating a new policy.
  - Committing expenditure above the budget level.
  - Causing the total expenditure financed from Council Tax, grants, borrowing and general reserves to increase.

### **Section 151 Officer**

- A.13 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

### **Section 151 of the Local Government Act 1972**

- A.14 Requires that Authorities “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 Local Government Finance Act 1988**

- A.15 Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to make a report if the Council or one of its Officers:
- Has made, or is about to make, a decision which involves incurring unlawful expenditure.
  - Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council.
  - Is about to make an unlawful entry in the authority's accounts.

The Section 151 Officer must send a copy of that report to the external auditor and to each Councillor.

Section 114 of the 1988 Act also requires:

- The Section 151 Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally.

- The Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under section 114.

### **The Accounts and Audit Regulations 2015**

A.16 Specify that a relevant body (Lincolnshire County Council) must:

- Prepare a statement of accounts in accordance with the Accounts and Audit regulations 2019 and proper practice.
- Undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control.
- Conduct a review each financial year of the effectiveness of its system of internal control and prepare an Annual Governance Statement. Following the review, the Audit Committee, must approve an annual governance statement, prepared in accordance with proper practices in internal control. The annual governance statement must accompany the statement of accounts.

### **The Local Government Act 2003**

A.17 This identifies the Section 151 Officer responsibilities in relation to:

- the level of the Authorities reserves and protocols for their use
- reporting on the robustness of the budget and the adequacy of reserves.
- taking into account matters as specified in the prudential code.
- reporting to Councillors on performance against budget and the impact on reserves.

A.18 The Section 151 Officer is responsible for:

- the proper administration of the Council's financial affairs.
- setting and monitoring compliance with financial management standards and accounting policies.
- determining and agreeing the accounting procedures and records for the Council.
- maintaining the Council's Financial Strategy.
- maintaining the Council's Capital Strategy.
- financial advice to the Council including advice on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- ensuring the provision of financial information.
- preparing the revenue budget (in conjunction with Chief Officers) and capital programme.
- ensuring that the Annual Statement of Accounts is prepared in accordance with International Financial Reporting Standards and statutory regulations

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as set out in the CIPFA *Code of Practice on Local Authority Accounting in the United Kingdom*.

- treasury management.
  - maintaining an adequate, effective and continuous audit service of the control systems of the Council
  - insurance and risk management

## **CHIEF OFFICERS**

- A.19 Chief Officers are responsible for ensuring that Executive Councillors and the relevant Overview and Scrutiny Committees and Panels are fully advised of the financial implications of all proposals and that the financial implications have been agreed where required by the Section 151 Officer.
- A.20 Chief Officers are responsible for consulting with the Section 151 Officer and seeking approval on any matter liable to affect the Council's finances materially before any commitments are incurred.
- A.21 Notifying the Council in conjunction with the Section 151 Officer of the annual outturn against planned budget.

## **The Annual Financial Statements**

- A.22 The Section 151 Officer is responsible for signing the Annual Financial Statements confirming that they present fairly the financial position of the Council. The Audit Committee is then responsible for approving the Annual Financial Statements. And where there are any concerns arising from the financial statements or from the audit bring these to the attention of the Council.

## **MAINTENANCE OF RESERVES**

- A.23 It is the responsibility of the Section 151 Officer to advise the Executive and the full Council on prudent levels of reserves for Lincolnshire County Council.

## **FINANCIAL REGULATION B:**

### **FINANCIAL PLANNING AND MANAGEMENT**

#### **INTRODUCTION**

- B.1 The Councils' budget consists of the Revenue Budget and Capital Programme which is approved by the Council in February each year.

#### **Preparation of the Performance and Budget Plan**

- B.2 The Head of Paid Service and the Section 151 Officer are responsible for proposing the Performance and Budget Plan to the Executive for consideration before its submission to the full Council for approval. This will be prepared in consultation with other Chief Officers.

#### **BUDGETING**

##### **Resource allocation**

- B.3 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's Budget and Policy Framework.

##### **Budget format**

- B.4 The general format of the budget will be determined by the Section 151 Officer in consultation with Chief Officers and the relevant Executive Councillor.

##### **Budget preparation**

- B.5 The Section 151 Officer is responsible for ensuring that the revenue budget and capital programme is prepared typically on a three-yearly basis and with close regard to the current programme of comprehensive spending reviews undertaken by the incumbent Government. These will be updated annually for consideration by the Executive, before submission to the full Council in accordance with the Budget and Policy Framework Procedure Rules. The full Council may amend the Budget or ask the Executive to reconsider it before approving it.
- B.6 The Executive is responsible for issuing the guidelines within which the Budget should be prepared.
- B.7 It is the responsibility of Chief Officers to prepare budget estimates reflecting the Council's Financial Strategy, Capital Strategy and agreed service plans for the Executive and that these estimates are prepared in line with the guidelines determined by the Executive in B6 above.

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## **Capital programme and schemes**

- B.8 The Section 151 Officer is responsible for ensuring that the capital programme is updated annually for consideration by the Executive before submission to full Council for approval. The Section 151 Officer is also responsible for ensuring regular monitoring reports are received by the Executive and the Overview and Scrutiny Management Board in relation to the delivery of the capital programme.
- B.9 Scheme business cases are required where a scheme is over £500k in value and forms part of the already approved capital programme. The decision to approve the business case will be taken by the relevant Executive Councillor with responsibility for financial matters, who may also refer significant schemes to the relevant service Overview and Scrutiny Committee for pre-decision scrutiny.
- B.10 The Overview and Scrutiny Management Board will monitor the delivery and outcomes of the overall capital programme. The relevant service Overview and Scrutiny Committee may also review or scrutinise specific schemes including the achievement of value for money and utilisation of best practice.

## **Budget monitoring and control**

- B.11 The Section 151 Officer is responsible for ensuring the provision of appropriate financial information to enable budgets to be monitored effectively. Chief Officers must monitor and control expenditure against budget allocations and report to the Executive and the Overview and Scrutiny Management Board on the overall position in line with the agreed budget monitoring timetable issued by the Section 151 Officer.
- B.12 It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Section 151 Officer. They should report on variances within their own areas in accordance with the Financial Management, Financial Planning and Financial Systems financial procedure (FP1). They should also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any potential or anticipated problems.
- B.13 Monitoring of capital schemes is in accordance with the terms of reference set for the Overview and Scrutiny Management Board in Article 6 of the Constitution.

## **APPROVAL OF BUDGET CHANGES**

### **In year changes to Budget**

- B.14 Outside of the criteria set out in paragraphs B16-19 below, all changes to the Budget must be made by full Council except for urgent changes to which paragraph 6 of the Budget and Policy Framework Procedure Rules applies.
- B.15 Changes to the Budget which increase the Council's total expenditure and require either the use of the Council's general reserves or increased borrowing must be referred by the Section 151 Officer to the Executive for consideration before being referred to the full Council for decision.
- B.16 Subject to B12 money can be reallocated between service headings, (a service heading is defined as all services under an individual Assistant Director). Budget will only be reallocated if the purpose for which the budget was originally allocated has changed and in accordance with the following rules:
- reallocations of up to £250,000 and involves revenue to revenue movements only shall be approved by the relevant Chief Officer/s and should be notified to the Section 151 Officer. All reallocations will be recorded and held by the Section 151 Officer and reported to the Executive on a quarterly basis.
  - reallocations of between £250,001 - £500,000 and involves revenue to revenue movements only shall be approved by decision by the relevant Executive Councillors. The approval report will be prepared by the Section 151 Officer in consultation with other relevant Chief Officers. All reallocations will be recorded and held by the Section 151 Officer and reported to the Executive on a quarterly basis.
  - reallocations over £500,000 and involves revenue to revenue movements only shall be approved by the Executive. The approval report will be written by the Section 151 Officer in consultation with other relevant Chief Officers. All reallocations will be recorded and held by the Section 151 Officer and reported to the Executive on a quarterly basis.
  - Any reallocation that involves a revenue to capital movement must also comply with the approval criteria contained in this paragraph (B16) however, in addition, must also gain approval in writing from the Section 151 Officer.
- B.17 External funding will be secured in accordance with the constitution, the approved Financial Strategy and the approval limits set out in this paragraph.

Budget changes will be made to the Council's income and expenditure budgets to ensure the appropriate financial governance arrangements are in place.

B.18 In deciding whether or not to make a bid for external funding or enter into a pooled funding arrangement Chief Officers, Executive Councillors or the Executive must ensure that:

- The project or fund contributes to the Council's corporate objectives;
- Matched funding is available within existing budgets;
- Partner contributions are confirmed;
- Risks are assessed and minimised including:
  - Where funding is linked to the achievement of specific outcomes or identified performance measures.
  - Where success relies on others.
- The Council has the capacity to deliver the outcomes and timescales required; and
- Have an agreed and clear Exit Strategy. This will minimise the risk to the Council following the conclusion of the grant.

And **must consider**:

- The probability of success in obtaining funding, particularly in relation to the resource costs of preparing bids;
- Co-ordination of bids and initiatives within the Council and with partners; and
- Whether the project represents value for money.

B.19 To make a bid for or accept a gift of external funding, officers must be eligible to do so under the terms of the respective service Scheme of Authorisation. In addition, for larger bids as detailed below officers should consult:

- The appropriate Executive Councillor or the Executive and S151 Officer – for projects where the external funding bid is more than £250,000.
- The appropriate Chief Officer and S151 Officer – for projects where the external funding bid is between £50,000 - £250,000.

The above criteria are applied to the making of a bid for external funding and do not constitute approval to spend on the project itself. Regulations B8-B10 on capital spend also apply.

The Section 151 Officer must ensure that:

- Costs, benefits and risks are assessed fully before partnership agreements are made;
- Governance, accountability and reporting arrangements are appropriate and clear; and
- Financial arrangements are appropriate and safeguard the Council's interests.

B.20 In cases of urgency, applications for external funding may be provisionally made following email approval to do so by the appropriate Chief Officer or Executive Councillor depending on the value of the external funding bid

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outlined above. The appropriate consultation must be carried out retrospectively and before the funding is formally accepted.

### **Approval of carry forward**

- B.21 All under and overspendings on service revenue budgets of up to 1% will be carried forward without exception, however, the use of this carry forward will be reported to the Executive and full Council for noting. The use of all under-spending on service budgets in excess of 1% will be considered by the Executive and decided by full Council. The means of funding all overspendings on service budgets in excess of 1% will be considered by the Executive and decided by the full Council. All 1% calculations will be made at Chief Officer level.
- B.22 All under and overspendings on the following budgets will be carried forward without exception
- Capital budgets;
  - The Dedicated Schools Budget;
  - Specific grants; and
  - Revenue budgets related to formally constituted shared services



## **FINANCIAL REGULATION C: RISK MANAGEMENT AND INTERNAL CONTROL INTRODUCTION**

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant risks to the Council.
- C.2 Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives and safeguarding public funds.
- C.3 There is a basic expectation that members and officers will act with integrity and with due regard to matters of probity and propriety, and comply with all relevant rules, regulations, procedures and codes of conduct.
- C.4 Risk management is an integral part of effective management. This should include the proactive participation of all those associated with planning and delivering services.

## **GOOD GOVERNANCE**

- C.5 Good governance can mean different things to people – in the public sector it means:

*"Achieving the intended outcomes while acting in the public interest at all times"*

- C.6 Corporate governance generally refers to the processes by which an organisation is directed, controlled, led and held to account.
- C.7 The Council's governance framework aims to ensure that in conducting its business it:
- operates in a lawful, open, inclusive and honest manner.
  - makes sure public money is safeguarded, properly accounted for and spent wisely.
  - has effective arrangements in place to manage risk.
  - meets the needs of Lincolnshire communities - secures continuous improvements in the way it operates.
- C.8 Our governance framework comprises of the culture, values, systems and processes by which the Council is directed and controlled. It brings together an underlying set of legislative and regulatory requirements, good practice principles and management processes.
- C.9 The Council is required to undertake an annual review of its governance and assurance arrangements – identifying any significant governance issues. The Section 151 Officer will compile an Annual Governance Statement (in consultation with the Corporate Leadership Team) in accordance with good practice.

## **RISK MANAGEMENT**

- C.10 The Corporate Leadership Team and the Executive are accountable for the risk and related control environment. They are also responsible for approving the Council's Risk Management Strategy and corporate risk policies and setting the level of risk the Council is prepared to accept (the risk appetite).
- C.11 The Audit Committee is responsible for overseeing the effectiveness of the Council's risk management arrangements, challenging risk information and escalating issues to the Corporate Leadership Team and the Executive where appropriate.
- C.12 The Section 151 Officer is responsible for preparing the risk management policy statement (strategy), for promoting it throughout the Council and for advising the Executive on the proper management of risk, for example, the appropriate placement of insurance cover, through external insurance or internal funding and the negotiation of all claims.
- C.13 The Senior Information Risk Owner is responsible for strategic information risks and leads and fosters a culture that values, protects and uses information in a manner that benefits the council and the services it delivers. The role ensures an appropriate governance framework is in place to support the council in meeting its statutory, regulatory, and third-party information obligations, and ensures risk from internal and external threats is appropriately mitigated.
- C.14 Chief Officers must have regard to the advice of the Section 151 Officer and adhere to the Council's Risk Management Strategy. Specifically, Chief Officers must:
- Take full ownership of all risks within their areas of responsibility, including those related to partnerships in which their service participates.
  - Ensure compliance with the Council's risk management framework – working within the Council's risk appetite.
  - Promote a culture of risk management awareness – ensuring risk management is the planned and systematic approach to the identification, evaluation and control of risk.
  - Notify the Section 151 Officer promptly of all new or increased risks, activities, properties or vehicles which require insurance and of any alterations that may affect existing insurances.

## INTERNAL CONTROL

- C.15 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.16 It is the responsibility of the Section 151 Officer to assist the Council to put in place an appropriate control environment and effective internal controls that adhere with proper practices – providing reasonable assurance of compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.17 The system of internal control plays a key part of the Council's governance framework.
- C.18 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## AUDIT REQUIREMENTS

### Internal Audit

- C.19 The Accounts and Audit Regulations 2015 require the Council to maintain an effective internal audit service to evaluate the effectiveness of its risk management, control and governance processes.
- C.20 The internal audit service should operate in conformance with the Public Sector Internal Audit Standards and CIPFA's local government application note relating to these standards.
- C.21 There is a requirement for an external quality assessment to be carried out at least once every 5 years to assess conformance with the Public Sector Internal Audit Standards. The Audit Committee should oversee and review the outcome of the external assessment.
- C.22 **Internal Auditors** have the authority to:
- Access any Council premises, assets, records, documents and correspondence.
  - Receive any information and explanations related to any matter under consideration.
  - Require any employee of the Council or school maintained by the Council to account for cash, income, payments or any other asset under their

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control.

- Access records belonging to third parties (eg Contractors) when required.
- Directly access the Head of Paid Service, the Executive, the Audit Committee and other Chief Officers & Overview and Scrutiny Committees as required.

C.23 The nature, role, responsibilities and authority of Internal Audit for the Authority are set out in the Internal Audit Charter

## **External Audit**

C.24 Through delegation by the Council, the Audit Committee is responsible for appointing the Council's external auditors. The Council has opted into the national scheme for External Auditor appointments under the Local Audit and Accountability Act 2014 and Regulation 3 of the Local Audit (appointing persons) Regulations 2015.

C.25 The Audit Committee considers all matters related to the Council's external auditor, including the annual audit letter and specific reports to those charge with governance.

The External Auditor has the authority:

- To have free and unfettered access to any records, documents and correspondence required to conduct their statutory audit.
- Receive any information and explanations related to any matter under consideration.

C.26 The Council may, from time to time, be subject to audit, inspection or investigation by external regulators, inspectors or agents such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## **PREVENTING FRAUD AND CORRUPTION**

C.27 The Section 151 Officer is responsible for the development and maintenance of a Counter Fraud Policy and Whistleblowing Policy which should be endorsed and approved by the Audit Committee.

C.28 The Head of Paid Service (Chief Executive) is ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption. The Council promotes a culture that will not tolerate fraud or corruption.

C.29 Chief Officers should ensure that this policy is adhered to and that they assess the risk of fraud, corruption and theft in their service areas - reducing these risks by implementing strong internal controls.

Specifically they are must report all suspected fraud or financial irregularity in their service areas to the Head of Internal Audit. The Head of Internal Audit will report significant matters to the Section 151 Officer, Head of Paid Service (Chief Executive), the Executive and the Audit Committee.

- C.30 Public bodies, such as this Council, are required to have a Whistleblowing policy and to ensure that employees are not victimised or dismissed for raising their concerns internally.

The Section 151 Officer is responsible for overseeing the effectiveness of the Council's governance arrangements – this includes the Council's whistleblowing arrangements. The Counter Fraud function is responsible for maintaining the whistleblowing reporting arrangements.

- C.31 The Audit Committee will scrutinise the effectiveness of the Council's Counter Fraud and Whistleblowing arrangements.

- C.32 The associated guidance on Risk Management and Internal Control can be found in Financial Procedure 2 – Risk Management and Internal Control.

## **FINANCIAL REGULATION D: ACCOUNTING RECORDS AND FINANCIAL SYSTEMS**

### **INTRODUCTION**

- D.1 Sound systems and procedures are essential to ensure an effective framework of accountability and control.

### **GENERAL**

- D.2 The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved in advance by the Section 151 Officer. However, Chief Officers are responsible for the proper operation of financial processes in their own directorates.
- D.3 Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed in advance with the Section 151 Officer.
- D.4 Chief Officers should ensure that their staff receives relevant financial training that has been approved by the Section 151 Officer.
- D.5 Chief Officers must ensure that accounting records and financial systems are operated in line with the council's information assurance framework to ensure security of information/information systems is maintained. Chief Officers must ensure records are managed appropriately and obligations set out in applicable information legislation met.

### **PAYMENTS TO EMPLOYEES AND MEMBERS**

- D.6 The Section 151 Officer is responsible for payment of remuneration to all staff and for payment of allowances to Councillors.

### **TAXATION**

- D.7 The Section 151 Officer is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.8 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits, submitting tax returns by their due date as appropriate and maintaining dispensations from the tax office.

## **FINANCIAL REGULATION E: CONTROL OF RESOURCES AND OTHER ASSETS**

### **INTRODUCTION**

- E.1 The Council recognises that effective control of its resources and other assets is required. These have been identified as people, information and data, ICT hardware and software, consumables, cash, and intellectual property.

### **ASSETS**

- E.2 Chief Officers should ensure that assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- E.3 Responsibilities for disposal of unwanted and obsolete items rests with the Section 151 Officer, Chief Officers and the appropriate Executive Councillor as described below:
- Items, at the point of disposal, less than £20,000 in value can be disposed of by the appropriate Chief Officer.
  - Items, at the point of disposal, between £20,000 and £100,000 in value can be disposed of by the appropriate Chief Officer in consultation with the S151 Officer.
  - Items, at the point of disposal, greater than £100,000 in value can be disposed of by the appropriate Chief Officer in consultation with the S151 Officer and appropriate Executive Councillor.
- E.4 The Executive Director of Commercial is responsible for the estate management, including all property acquisition and disposal, of the County Council and the overall objectives for this are contained in the Property Management Strategy held in the Executive Director of Commercial's Office. Where such acquisition and disposal forms part of a wider project or initiative then that wider project or initiative will still require approval in accordance with the Constitution.
- E.5 For all acquisitions including lease or rent renewals the approval requirements at B9 of these regulations apply. (For rent or leases, costs should be calculated as the basic rent or lease multiplied by the term).
- E.6 The County Council may not lease property at less than full market rent without Secretary of State consent unless certain criteria are met. Approval for the grant of a lease at an undervalue must be obtained either through an appropriate decision based on a report to the Executive Councillor or by the exercise of authority delegated for the purpose. Early advice must be sought

from or via Corporate Property as to the full market rental value for inclusion in that report or delegated decision process, to demonstrate the scale of the benefit in kind embodied in a lower rent. Even where there is general consent from the Secretary of State issues may arise concerning state aid; therefore legal advice should be sought.



## **TREASURY AND INVESTMENT MANAGEMENT**

- E.7 Lincolnshire County Council adheres to the requirements of the CIPFA Code of Practice in Treasury Management in Public Services 2017 and associated updates and in doing so has adopted the following clauses within these financial regulations.
- E.8 The Council will create and maintain, as the cornerstones for effective treasury management:
- A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
  - Suitable treasury management practices (TMPs) setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- E.9 The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.
- E.10 The Executive Councillor for Resources will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual treasury management strategy and annual investment strategy in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
- E.11 The approval and regular monitoring of the Council's treasury management policies and practices is the responsibility of the Executive Councillor for Resources, and responsibility for the execution and administration of treasury management decisions lies with the Section 151 Officer, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- E.12 The Council nominates the Overview and Scrutiny Management Board to be responsible for ensuring effective scrutiny of the treasury management strategy and policies, including the consideration of all reports as detailed in E.11 above and in addition, quarterly treasury monitoring reports.

## **STAFFING**

- E.13 The Head of Paid Service is responsible for determining how Officer support for Executive and non-Executive roles within the Council will be structured within the budget approved by full Council.

E.14 The Head of Paid Service is responsible for providing overall management to staff. They are also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration of a job.

E.15 Chief Officers are responsible for controlling total staff numbers by:

- Providing the Executive with a forecast of the budget necessary in any given year to cover estimated staffing levels.
- Adjusting the staffing to a level that can be funded within approved budget provision.
- Varying the provision of service as necessary within that constraint in order to meet changing operational needs.
- The proper use of appointment procedures.

## **FINANCIAL REGULATION F: INCOME AND EXPENDITURE**

- F.1 It is the responsibility of Chief Officers to ensure that a proper scheme of authorisation has been established within their area and is operating effectively. The scheme of authorisation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together within the limits of their authority.
- F.2 As part of its anti-money laundering procedures the Council will not accept any cash payments in excess of £1,000.
- F.3 The Executive is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.
- F.4 Responsibility for the write off of bad debts rests with Section 151 Officer, Executive Councillor or Executive as described below:
- Write off of debt less than £100,000 can be approved by the S151 Officer.
  - Write off of debt between £100,000 - £500,000 must be approved by formal decision by the appropriate Executive Councillor in consultation with the S151 Officer.
  - Write off of debt greater than £500,000 must be approved by formal decision by the Executive in consultation with the S151 Officer.

## **FINANCIAL REGULATION G. EXTERNAL ARRANGEMENTS**

### **INTRODUCTION**

- G.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It may also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- G.2 The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- G.3 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- G.4 The Section 151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and that appropriate arrangements are in place for fulfilling any responsibilities of the Council in respect of any pooled fund arrangements or as lead authority or accountable body in respect of any external funding. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- G.5 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **EXTERNAL FUNDING**

- G.6 The Section 151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Paragraphs B17-20 also apply.

### **WORK FOR THIRD PARTIES**

- G.7 The Executive is responsible for approving the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000. Approval will be made after appropriate professional (including but not restricted to legal advice) has been obtained.
- G.8 The Councils Contract Regulations provide the primary source of guidance on the Councils involvement relating to all trading activity and must be read in conjunction with paragraphs G10-G14 below.

### **TRADING ACCOUNTS /BUSINESS UNITS /SHARED SERVICES**

- G.9 It is the responsibility of the Section 151 Officer to advise on the financial

aspects relating to the establishment and operation of trading accounts, business units, and shared services.

- G.10 The Section 151 Officer will be responsible for the set up and maintenance of the financial affairs of the trading account, business unit or shared service and ensure all the necessary accountancy information is available and reported.
- G.11 The Council has power to charge for discretionary services. A discretionary service is one that the authority is authorised, but not required, to provide. The income generated from such charges should not exceed the cost of service provision. The rates set for such services, and the manner in which the income is collected, will be in line with the Financial Procedure for Income and Expenditure (FP5). Where consideration is being given to the introduction of charges for discretionary services the relevant Chief Officer must consult the, Section 151 Officer and the Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

## **POWERS TO TRADE**

- G.12 The authority has power to perform, for commercial purposes; anything it is normally authorised to do for the purpose of carrying out its normal functions but only if it does so through a company. The authority cannot perform, for commercial reasons, its ordinary functions that it is already required to carry out. Where consideration is being given to performing functions for a commercial purpose the relevant Chief Officer must consult the Section 151 Officer and the Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

## **LOCAL AUTHORITY COMPANIES**

- G.13 Where consideration is being given to the establishment of a local authority company or involvement in other companies, even where they are not regulated under the Local Government and Housing Act 1989 the relevant Chief Officer must consult the Section 151 Officer and the Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

## **FINANCIAL REGULATION H: REVISIONS AND AMENDMENTS**

### **INFLATION**

- H.1 Where in these regulations specific financial limits apply, the Section 151 Officer shall review those limits at least triennially in the light of inflation and shall be authorised to vary them in the light of changes in their real value without further approval.

### **CONSTRUCTION AND INTERPRETATION**

- H.2 The Financial Regulations, including the more detailed Financial Procedures shall be read and construed in conjunction with and in addition to the Contract Regulations of the Council and its Scheme of Delegation to Chief Officers.

## **APPENDIX A – FINANCIAL PROCEDURES OVERVIEW & INDEX**

### **FINANCIAL PROCEDURES – AN OVERVIEW**

Financial Procedures provide the detailed mechanism to underpin the principles enshrined in the Regulations.

The procedures are an integral part of the control framework and carry the same force as the regulations from which they emanate.

The Section 151 Officer has responsibility for maintenance and review of these regulations.

Each regulation sets out:

- the area covered;
- the purpose of the procedure (why it is important);
- the key controls;
- responsibility of Statutory Officers;
- responsibility of Chief Officers;
- responsibility of Members;
- related documents;
- contacts for assistance and advice
- procedural requirements;

## FINANCIAL PROCEDURES

1. **Financial Management, Financial Planning and Financial Systems**  
(Including policies and standards, system and records, virement, year-end procedures and accounts, budget management, monitoring and control, reserves and balances, )
2. **Risk Management and Internal Control**  
(Including Risk profiling and responsibility, counter fraud, insurance, information and information systems, provision of adequate audit, relationships with external audit and other inspection regimes)
3. **Accounting Records**  
(Including accounting records, accounting policies, year-end procedures, capital accounting, VAT, CITDS, Income Tax and National Insurance)
4. **Control of Resources and Assets**  
(Including information security, inventories, stores, disposals, intellectual property, management of data and information, retention and disposal of records staffing, treasury management, loans to third parties, bank accounts, imprest accounts, cash management, trust funds.)
5. **Income and Expenditure**  
(Including goods and services ordering, payment; leasing, staff and Member payments, income monitoring, receipting, banking)
6. **External Arrangements**  
(Including partnership arrangements, external funding, provision of services to other bodies, other funds, commercialisation)



# CONTRACT REGULATIONS

## 1. BACKGROUND

### 1.1 Context and Purpose

Each year, the Council procures goods, services and works to the value of hundreds of millions of pounds. These purchases can range from a multitude of transactions that are individually quite small (for example stationery) through to single major projects (for example infrastructure and asset acquisition). The norm is for these items to be obtained on the basis of a contract between the Council or one of its partner organisations and external suppliers.

Contract Regulations outline the general principles to be followed by Chief Officers in procuring goods, services and works from organisations external to the County Council. In association with the County Council's Financial Regulations and Scheme of Authorisation to Chief Officers they comprise a comprehensive control regime governing the financial affairs of the County Council.

### 1.2 General Requirements

Every contract entered into by the County Council must be within the Council's powers, in connection with the Council's functions and in line with the aims and objectives of the Council and must comply with:

- All relevant statutory provisions;
- The relevant European procurement rules (e.g. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
- Best Value requirements;
- The Council's Constitution including these Contract Regulations, the Council's financial regulations and scheme of authorisation; and
- The Council's strategic objectives, Sustainable Procurement Strategy and policies and the Contract and Procurement Procedure Rules.

The highest standards of probity are required of all officers and Councillors involved in the procurement, award and management of the Council's contracts and all officers should take into account, when procuring, the requirements of the Council's code of conduct.

### 1.3 Supporting Guidance

These Regulations are underpinned by Contract and Procurement Procedure Rules which relate to procurement activities and replaces previous individual Directorate Memoranda.

## **1.4 Authority**

Any procurement carried out on behalf of the Council may only be undertaken with the appropriate authority of the Council. Chief Officers may have delegated authority under the Scheme of Responsibility for Functions set out in the Constitution. If not, then authority at Councillor level will need to be sought in accordance with the Constitution.

Where there is appropriate authority, procurement may be delegated in line with each Directorate's scheme of authorisation. Authorised officers may then enter into appropriate contracts and place orders within approved budgets and in line with these Contract Regulations.

## **1.5 Scope**

The following contracts are exempt from the requirements of these Contract Regulations as they are controlled via other regulations as stated:

- Employee Contracts (see Employment Manual);
- Contracts relating solely to disposal or acquisition of an interest in land (see Property Management Strategy/Financial Regulations)
- The provision of services to or by or the creation of partnerships with other public bodies (see Financial Regulations);

These Regulations apply to all service areas, units and establishments of the County Council. Where the County Council engages the services of an external private sector organisation to act as its agent in letting contracts on behalf of the Council, it is a requirement of the terms of engagement of the external organisation that they comply with these Regulations in letting contracts on behalf of the Council. Where the Council is working in partnership with another public body which procures goods, services or works as a lead authority on behalf of the Council, the Contract Regulations of the lead authority may be used. If the Council acts as the lead authority to procure goods, services or works on behalf of other bodies then these Contract Regulations must be followed.

These Regulations apply to schools except where they are incompatible with the Scheme for Financing Schools as required under the School Standards and Framework Act 1998 which shall take precedence. If clarification is required advice should be sought from the Executive Director - Resources.

## **2. GENERAL PRINCIPLES**

### **2.1 Pre-Procurement Procedure**

Before commencing a procurement, it is essential that the officer leading the procurement has identified the need and fully assessed any option for meeting those needs. Consideration shall be given to the Council's Sustainable Procurement Strategy as appropriate.

Before undertaking a procurement the officer shall:

- Consider all other means of satisfying the need (including recycling and re-use where appropriate);
- Take advice as necessary from the Council's Commercial and Legal teams
- Consider whether there is a Partnership or Framework Agreement already in place that should be used;
- Consider external market capability;
- Establish a business case for the procurement (including costs involved in conducting the procurement);
- Be satisfied that a detailed specification and conditions forming the basis of the contract, and a detailed, full and reasonable estimate of the whole life cost of the contract, has been prepared; and
- Ensure all necessary approvals are in place.

## **2.2 Contracts Subject to the European Union Regulations**

UK Public Contract Regulations, which enact EU Directives, apply to all contracts for goods, services or works as detailed in the UK Public Contract Regulations..

Where an estimated value of a contract exceeds the current EU threshold then the contract shall be awarded in accordance with the above EU Regulations. Under these regulations, the contract may be awarded under the open or restricted procedure. In particular circumstances, other procedures are available but suitability should be assessed by the Commercial Team and legal advice obtained as appropriate.

Where the EU Regulations apply inclusion on any list does not automatically pre-qualify any firm and absence from the list does not automatically exclude any firm.

The EU Regulations set out the requirements for the publication of contract notices for goods, service, and works contracts and rules relating to technical specifications and the publication of contract award notices.

The EU regulations also set out minimum timescales for various processes, for example, receipt of expressions of interest and tenders.

Contract and Procurement Procedure Rules provide further explanation of the requirements of European Regulations. Commercial/Legal advice shall be sought by any officer undertaking such a procurement to ensure all legal requirements are met.

## **2.3 SERCO and VINCI MOUCHEL**

The County Council has entered into and invested capital in a wider contractual partnership with Serco which is providing services within the following areas:

- Information Technology
- People Management
- Customer Contact
- Financial Administration

It has entered into separate contractual partnership with Vinci Mouchel for Property Services including Facilities Management; Energy Management; support to Corporate Asset Management; Managed Services; Property Records; Valuations; Travellers Sites; Capital Project Services and Catering (main site and member services).

So that the Council enjoys the maximum benefit to be had from these contracts it is the responsibility of all Chief Officers in conjunction with the Chief Information and Commissioning Officer to ensure that all Officers are aware of when goods and services can and should be purchased directly from Serco and Vinci Mouchel.

Other goods, services and works may have been or may be procured as part of wider contractual relationships with partnering organisations including through frameworks, which have been set up as a result of EU compliant competition. Chief Officers shall ensure that all officers are made aware of when these organisations can and should be used together with written guidance on the process to be followed.

## **2.4 ESPO**

The Council is currently a member of the Eastern Shires Purchasing Organisation (ESPO). Use of this purchasing consortium saves time and cost involved in tendering individual contracts. They can also provide support by undertaking competition on the Council's behalf. These services should be used where ever possible and Chief Officers shall ensure that officers make appropriate use of ESPO. The Commercial Team will provide advice on this area of procurement.

## **2.5 Works Contracts**

In the case of works contracts where Council funding is estimated to exceed £500,000 the requirements relating to briefs and appraisals set out in Financial Regulations B9 should be followed.

## **2.6 Joint Procurement**

Any joint procurement arrangements with other Local Authorities or public bodies including membership or use of Purchasing Consortia (other than ESPO) shall be approved at Councillor level in line with the Constitution prior to the commencement of any procurement on behalf of the Council.

European Regulations may apply to joint procurements and these shall be complied with. Legal advice should be sought.

## **2.7 Employment Considerations in Procurement**

Any procurement which would involve a transfer of staff shall have regard to the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and in relation to pensions the Best Value Authorities Staff Transfers (Pensions) Direction 2007. Where there is a TUPE transfer, the Council need to provide bidders with accurate and timely information on all relevant matters. Bidders must be able to

demonstrate that they understand and can manage their obligations under TUPE. These requirements apply even if the contract is being re-let and even if any transfer of staff would be between external organisations. Further guidance is given in Financial Procedure 5 and legal guidance should always be sought.

### **3. CONTRACTING PROCESSES**

#### **3.1 Selection of Supplier**

There are a number of routes by which the Council may choose to select its supplier for example through a framework; through existing contracts with Serco and Vinci Mouchel; through quotations or tenders. It is important that adequate consideration is given to the selection of the most appropriate route. Demonstration of competition is an integral part in achieving best value. Advice is available from the Commercial Team.

#### **3.2 Estimating the Contract Value**

Contract values should be calculated in accordance with the EU Regulations even when the regulations do not apply (further guidance is given in Contract and Procurement Procedure Rules) to ensure consistency. The Council shall make the best use of its purchasing powers by aggregating purchases wherever possible across the Council. Particular goods, services or works shall not be split in an attempt to avoid the applicability of these Contract Regulations or the EU Regulations.

#### **3.3 Procurement Processes**

For quotations below £25,000 there is a requirement to use a local supplier where this gives value for money.

##### **Low Value Procurement (Below £10,000)**

For these purchases direct approach to a single supplier is acceptable, competitive quotations are not required. The purchasing officer should be satisfied that the costs are reasonable. It is expected that ESPO will be considered for the majority of this type of purchase.

A local supplier should be used where appropriate. Where a local supplier is not used the reason must be recorded in writing.

##### **Medium Value Procurement (£10,000 to £25,000)**

For contracts or orders of medium value at least three written quotations should be sought based on a Request For Quotations document with appropriate terms and conditions. Where applicable, quotations should be sought from contractors on the Council's Approved List of Contractors. If an approved list is not available appropriate suppliers should be selected in line with the guidance provided by the Commercial team. Where it is not possible to obtain three competitive quotes the officer must keep a record of the reasons for this.

At least one of the quotations must be from a local supplier and a local supplier should be used where they provide the most economically advantageous offer. Where a local supplier is not used the reason must be recorded in writing.

#### High Medium Value Procurement (£25,001 to the EU threshold for Services)

Where EU Treaty principles require advertisement (in accordance with the "EU Commission Interpretative Communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives") the contract must be advertised in Source Lincolnshire and Contracts Finder.

Otherwise unless a Chief Officer or his or her representative determines that such advertisement is appropriate to achieve value for money, high medium value contracts will be awarded without advertisement.

Instead, at least four written quotations should be sought based on a Request For Quotations document with appropriate terms and conditions.

At least two of the quotations must be from local suppliers.

Where applicable, quotations should be sought from contractors on the Council's Approved List of Contractors. Where it is not possible to obtain four competitive quotes the officer must keep a record of the reasons for this.

#### High Value Procurement (Above the OJEU Threshold for Services)

Contracts for services and supplies of a high value must be procured in accordance with EU procurement law as such contracts will be covered by the procurement regime.

For works contracts of a high value but below the EU threshold for works at least five tenders should be invited. Invitation may be by direct invitation from a select list if the EU Treaty principles do not require advertisement.

If EU Treaty principles require advertisement tenders shall be sought by

- open competitive tendering via public advertisement (Contracts Finder and Source Lincolnshire) supplemented by advertisement in newspapers and journals if appropriate; or
- a Framework let in accordance with EU legal requirements.

Where it is not possible to obtain five competitive tenders the officer must keep a record of the reasons for this.

#### High Value Procurement subject to European Regulations

The EU Regulations shall be followed for all procurements subject to them. This may include the use of a Framework let in accordance with EU legal requirements.

Contract and Procurement Procedure Rules provide further guidance.

### **3.4 Award of Contracts**

Tenders subject to the EU Regulations shall be evaluated in accordance with the relevant regulations and the award criteria. All tenders not subject to the EU Regulations shall be evaluated in accordance with the award criteria which must be notified to potential tenderers.

Unless the award of the contract falls within the delegated authority of the Chief Officer, Councillor approval should be sought in line with the Council's Constitution.

The decision to accept a quote or tender in excess of the available budget will be subject to the rules relating to budget changes contained in the Financial Regulations.

### **3.5 Exceptions to Normal Routes**

In exceptional cases where a Chief Officer believes an alternative route to the four normal routes is required, (subject to the miscellaneous provisions in this document), the Chief Officer should comply with the requirements of this clause. For contracts with an estimated value above the Health and Social Care Services Contracts EU Threshold as varied from time to time (currently £615,278), the proposal should be taken to the Executive for approval prior to the contract being entered into. For contracts with a value of between £250,000 and the Health and Social Care Services Contracts EU Threshold as varied from time to time (currently £615,278) the proposal should be taken to the relevant Executive Councillor for formal approval prior to the contract being entered into. For contracts with a value between £10,001 and £249,999 approval in writing can be given by the Chief Officer subject to the Chief Officer consulting with the relevant Executive Councillor on all exceptions where the contract value exceeds £75,000. The Chief Officer shall keep a register of contracts that they have approved as exceptions and the reasons why.

If public procurement (EU thresholds) rules apply this shall limit the ability to let contracts other than through competition. In this case advice should be sought from the Commercial team or Legal Services. Regardless of whether EU Regulations permit the use of direct negotiation, exception must be sought to the normal rules set out in these Contract Regulations in accordance with this section.

### **3.6 Electronic Tendering**

Requests for quotations above £10,000 and invitations to tender must (other than in exceptional circumstances) be transmitted by electronic means using Delta. Quotations and tenders submitted by electronic means must ensure that:

- Evidence that the transmission to the supplier was successful and is recorded;
- Each quote or tender submitted to the Council electronically is in the manner prescribed in the advertisement or the invitation to tender documents; and

- Electronic tenders are kept in a separate secure structure which cannot be opened until the deadline has passed for receipt of tenders. Electronic quotations are to be kept in a separate secure folder by the officer conducting the procurement.

#### **4. CONTRACT MANAGEMENT (All Contracts - Revenue and Capital)**

All contracts should be in writing and in place prior to receiving goods or commencement of the works or service. Contracts shall be entered into based on the Council's relevant terms and conditions, which shall be included with each purchase order, invitation to tender or negotiation. In the case of medium and high value procurement where alternative terms and conditions are proposed, legal advice shall be sought.

All medium high value and high value contracts must be recorded on the Council's contract register and a copy stored electronically in the Council's contract database.

Contracts should be drawn up using the relevant professional advice and support. Contracts should be signed in accordance with the Directorates scheme of delegation. Where the value of the contract exceeds £75,000 legal advice should be obtained as to whether the contract is executed as a deed.

All variations to contracts shall be in writing.

When the total expenditure under any contract (as opposed to scheme) exceeds or is likely to exceed the original contract sum (adjusted for subsequent approved price increases) by 5% or more (except overspendings of less than £10,000) and the reasons for the excess have not been the subject of an earlier report, the responsible Chief Officer shall submit a written report to the relevant Executive Councillor. A report of all overspends will be submitted annually to the Overview and Scrutiny Management Board.

##### **4.1 Contract Extension**

Any contract may be extended in accordance with its terms. Approval for such extensions shall be sought at the relevant level in line with the Council's Constitution.

Where the terms do not expressly provide for extension, contracts subject to EU Regulations may be extended by negotiation in accordance with the rules set out in the EU Regulations. Such extensions and extensions of all other contracts should be treated the same as procuring with a single supplier and the requirements set out in the Exceptions to Normal Routes in these Contract Regulations should be applied.

##### **4.2 Records of contracts, quotes and tenders**

The officer with delegated authority in respect of a particular procurement shall maintain a list of all quotations and tenders received. In addition the officer shall follow the relevant opening procedures contained in Financial Procedure 5.



Each Corporate Director shall ensure that the Council's contract register is maintained at all times and reflects his/her own register of all medium high value and high value contracts entered into by his/her department.

#### **4.3 Termination of Contract**

For all medium and high value contracts, termination shall be approved in line with the delegations contained in the Council's Constitution. Legal advice should be sought as appropriate.

### **5. MISCELLANEOUS PROVISIONS**

#### **5.1 Pension Fund Managers & Associated Professional/Technical Service Providers**

Responsibility for these contract arrangements rest with the Pensions Committee and is covered under Article 7 of the Constitution.

#### **5.2 Local Authority Companies**

Where consideration is being given to the establishment of a local authority company or involvement in other companies, even where they are not regulated under the Local Government and Housing Act 1989 the relevant Chief Officer must consult the Executive Director - Resources and the Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

#### **5.3 Charging for discretionary services**

The Council has power to charge for discretionary services.

A discretionary service is one that the authority is authorised, but not required, to provide. The income generated from such charges should not exceed the cost of service provision.

The rates set for such services, and the manner in which the income is collected, will be in line with the Financial Procedure for Income.

Where consideration is being given to the introduction of charges for discretionary services the relevant Chief Officer must consult the Executive Director - Resources and the - Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

#### **5.4 Powers to Trade**

The authority has power to perform, for commercial purposes; anything it is normally authorised to do for the purpose of carrying out its normal functions but only if it does so through a company.

The authority cannot perform, for commercial reasons, its ordinary functions that it is already required to carry out.

Where consideration is being given to performing functions for a commercial purpose

the relevant Chief Officer must consult the Executive Director - Resources and the Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

## **5.5 Review Arrangements**

The Executive Director - Resources shall review these Regulations annually.

# **OFFICER EMPLOYMENT PROCEDURE RULES, OFFICER EMPLOYMENT PROTOCOL AND THE COUNCILLOR'S ROLE**

## **OFFICER EMPLOYMENT PROCEDURE RULES**

(These rules cover statutory requirements and form the Council's standing orders in respect of employment.)

### **1. DEFINITIONS**

In this Order the following words have the following meanings:

The 1989 Act	The Local Government and Housing Act 1989.
The 2000 Act	The Local Government Act 2000.
The 2011 Act	The Localism Act 2011.
Chief Finance Officer	The officer having responsibility for the purposes of section 151 of the Local Government Act 1972.
Disciplinary Action	In relation to a member of staff of the County Council, any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the County Council, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the County Council has undertaken to renew such a contract.
Employee	Person appointed to or holding a paid office or employment under the authority.

Head of County Council's Paid Service	The officer designated under section 4(1) of the Local Government and Housing Act 1989.
Independent Person	A person appointed under section 28(7) of the 2011 Act.
Local Government Elector	A person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the People Acts.
Monitoring Officer	The officer designated under section 5(1) of the Local Government and Housing Act 1989.
Panel	A committee appointed by the Council under Article 7 of the Constitution to carry out the functions required under these Rules.
Proper officer	An officer appointed by the County Council for the purposes of the provisions in this Order.
Relevant Independent Person	Any Independent Person who has been appointed by the Council or, where there are fewer than two such persons, such Independent Persons as have been appointed by another local authority or authorities as the Council considers appropriate.
Relevant Meeting	Means a meeting of the full Council to consider whether or not to approve a proposal to dismiss a Relevant Officer.
Relevant Officer	The Chief Finance Officer, the Head of the County Council's Paid Service or the Monitoring Officer as the case may be.

## **2. EMPLOYMENT AND DISMISSAL OF SENIOR OFFICERS**

- 2.1. Subject to paragraphs 2.2, 2.3 and 2.4 the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Head of Paid Service and his nominees.

- 2.2 Paragraph 2.1 shall not apply to the appointment or dismissal of, or disciplinary action against employees within the description of paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 3384 of 2002), which may be summarised as:
- (a) Head of Paid Service;
  - (b) Chief Officers;
  - (c) Officers (other than clerical and administrative staff) who report directly to the Head of Paid Service;
  - (d) Officers who directly advise the Council;
  - (e) Officers who report directly to the above officers;
  - (f) Political assistants.
- 2.3 Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the Head of the County Council's Paid Service, the full Council must approve that appointment before an offer of appointment is made to that person.
- 2.3A Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of the County Council's Paid Service, as the Council's Chief Finance Officer or as the Council's Monitoring Officer, the full Council must approve that dismissal before notice of dismissal is given to that person.
- 2.4 Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in paragraph 2.2 other than in relation to political assistants, at least one member of the Executive must be a member of that committee or sub-committee.
- 2.5 In paragraphs 2.5 and 2.6 "appointor" means, in relation to the appointment of a person as an officer of the County Council, the Council or where a committee, sub-committee or officer is discharging the function of appointment on behalf of the County Council, that committee, sub-committee or officer, as the case may be.
- 2.6 An offer of an appointment as an officer referred to in paragraph 2.2 other than in relation to political assistants, must not be made by the appointor until:
- (a) The appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor 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 the appointor wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the appointor had 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 notified the appointor that neither s/he nor any other member of the Executive has any objection to the making of the offer;
  - (ii) the Proper Officer has notified the appointor that no objection was received by him/her within that period from the Leader; or
  - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

2.7 In paragraphs 2.7 and 2.8, “dismissor” means, in relation to the dismissal of an officer of the County Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the County Council, that committee, sub-committee or other officer, as the case may be.

2.8 Notice of the dismissal of an officer referred to in sub-paragraph 2.2 other than in relation to political assistants, must not be given by the dismissor until:

- (a) 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;
- (b) the Proper Officer has notified every member of the Executive of:
  - (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
  - (iii) 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
- (c) either:

- (iv) the Leader has, within the period specified in the notice notified the dismissor that neither s/he nor any other member of the Executive has any objection to the dismissal;
- (v) the Proper Officer has notified the dismissor that no objection was received by him/her within that period from the Leader; or
- (vi) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

2.9 Nothing in paragraph 2.1 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

### **3 APPOINTMENT OF OFFICERS**

3.1 All appointments must be made on merit and, except in exceptional circumstances, will be open to competition by any suitably qualified person. Any appointment made under 3.2 shall be on merit.

3.2 Exceptionally, an appointment may be limited to existing officers where:

- the appointment is for temporarily added duties including for example, a temporary secondment/development opportunity; or
- there is a need to consider redeployment following redundancy or reorganisation (where existing officers are “At Risk.”) and where there are employees with a disability under the Equality Act 2010. Preference will be given to those employees with a disability and to internal candidates at risk of redundancy or potential redundancy;

a post is advertised internally and externally open to both existing officers and to external candidates. Preference in terms of gaining an interview will be given to internal and external candidates with a disability under the Equality Act 2010.

3.3 Where the Council propose to appoint an officer to any post 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 that is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 3.4 Every appointment of a Chief Officer shall be made by the Appointments Committee, save that the appointment of a Head of Paid Service must be approved by Council.

#### **4. DISCIPLINARY ACTION – HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER**

- 4.1 A Relevant Officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- 4.2 The Council must invite Relevant Independent Persons to be considered for appointment to the Panel with a view to appointing at least two such persons to the Panel.
- 4.3 Subject to paragraph 4.4 the Council must appoint to the Panel such Relevant Independent Persons who have accepted an invitation issued in accordance with paragraph 4.2 in accordance with the following priority order
- (a) a Relevant Independent Person who has been appointed by the Council and who is a Local Government Elector;
  - (b) any other Relevant Independent Person who has been appointed by the Council;
  - (c) a Relevant Independent Person who has been appointed by another local authority or authorities.
- 4.4 The Council is not required to appoint more than two Relevant Independent Persons in accordance with paragraph 4.3 but may do so.
- 4.5 The Council must appoint a Panel at least 20 working days before a Relevant Meeting.
- 4.6 Before the taking of a vote at a Relevant Meeting on whether or not to approve a dismissal of a Relevant Officer the Council must take into account in particular
- (a) any advice, views or recommendations of the Panel;



- (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
- 4.7 Any remuneration, allowances or fees paid by the Council to a person appointed to the Panel shall not exceed the level of remuneration, allowances or fees payable to that person in respect of that person's role as an Independent Person.

## **OFFICER EMPLOYMENT PROTOCOL INCLUDING THE COUNCILLOR'S ROLE**

### **1. INTRODUCTION**

The County Council is a very substantial employer and, from time to time, Councillors may be required to get involved in employee matters in the areas of appointment or appeals against dismissal as described at paragraph 7.05 of Article 7, of Part 2. It is important that any involvement in staffing matters by Councillors is within the spirit and the constraints of the Council's existing employee relation procedures. Councillors need to be aware that inappropriate actions may prejudice a Councillor's ability to be involved in officer appointments or disciplinary appeals.

Although Councillors are in the position of employer in relation to all the officers of the County Council, it is the senior officers of the Council who are responsible for the day-to-day line management control, appointment, development and disciplinary arrangements for staff. Councillors should therefore not seek to involve themselves in day-to-day staffing matters.

### **2. A COUNCILLOR'S ROLE IN STAFFING MATTERS**

Councillors should conduct their business with the County Council and any of its officers in a way which enhances good relationships between Councillors, the managers employed by the County Council and the officers generally. The County Council has established sound personnel functions and effective machinery to facilitate good relationships with its employees and with those trade unions which are recognised as the employees' representatives. Various joint Committees exist in which joint discussions take place between Councillors, Senior Officers and representatives of the employees. The involvement and advice of the Executive Director with responsibility for People Management in such consultations ensures a professional and consistent approach to this key aspect of employer relations.

In addition, every employee has available for use a grievance procedure which may be exercised in relation to employment, provided it is not a matter concerning the grading of a post. As far as grading is concerned, this is a matter for the application of the National and/or Local Conditions of Service on the advice of the Executive Director with responsibility for People Management and in accordance with the Council's Rules and Procedures. In this area too, there are established arrangements for consultation with recognised trade unions as appropriate.

In the light of all of the above, Councillors should ensure that they only become involved in staffing matters within the established arrangements and procedures. If Councillors are:

- (a) concerned about the conduct of an officer or group of officers;
- (b) concerned about the working arrangements of an officer or group of officers;
- (c) approached by an officer, even as one of their constituents, regarding any matter affecting employment or working conditions; or
- (d) approached by a trade union official on behalf of a trade union or an individual officer;

they should make no comment or commitment and refer the matter in writing or by discussion to the Chief Officer who is responsible for the day-to-day management of the service in which the officer is employed.

It is then the Chief Officer's responsibility, in consultation with other professional advisers as appropriate, to investigate and resolve matters.

Exceptionally, there may be matters of such delicacy or seriousness that Councillors should report them directly to the Head of Paid Service.

In all cases Councillors must ensure that they take no action and should make it clear to those officers or others who approached them that the matter will be referred to the appropriate Chief Officer for resolution in accordance with the Council's normal procedures. Likewise officers should not raise any employment matters with Councillors or seek to lobby Councillors on matters such as staff appointments, gradings or promotion.

Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

### **3. RECRUITMENT AND APPOINTMENT**

The law and the Employment Procedure Rules of this Constitution lay down rules for the appointment, discipline and dismissal of officers. These must be observed scrupulously at all times. If a Councillor is called upon to take part in appointing an Officer, the only question he/she should consider is which candidate would best serve the whole Council. Councillors should not let their political or personal prejudices influence their judgement. They should not canvass the support of colleagues for any candidate and they should resist any attempt by others to canvass their support.

#### **3.1 Declarations**

- (i) The Council requires any candidate for appointment as an Officer under the Council to state in writing whether they are related to an existing Councillor or Senior Officer of the Council;

- (ii) Any candidate who fails to make any disclosure required under sub-paragraph (i) above shall be disqualified for such appointment and, if appointed, shall be liable to dismissal without notice.
- (iii) Every Councillor and Senior Officer of the Council shall disclose to the Council any relationship, as in (i) above, known to him to exist between himself and a candidate for an appointment in which he may be involved.
- (iv) It shall be the duty of every Chief Officer and Senior Officer to whom such relationship is disclosed to record the disclosure and to notify the Monitoring Officer accordingly.
- (v) No candidate so related to a Councillor or a Senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him.
- (vi) Where such relationship to a Councillor exists the Councillor concerned shall not take part in the consideration, or discussion of, or vote on, any question with respect to the appointment.
- (vii) For the purpose of this paragraph 3.1 'Senior Officer' means the holder of any politically restricted post as defined in the Local Government and Housing Act 1989.

### **3.2 Seeking support for appointment**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor, Chief Officer or other Officer for any appointment with the Council.
- (ii) No Councillor will seek support for any person for any appointment with the Council.

3.3 The content of paragraphs 3.1 (i) (ii) and (iii) will be stated in the advertisement inviting applications for appointment and/or in any form of application supplied for use by candidates.

3.4 Nothing in paragraph 3.1 (i) shall preclude a Councillor from giving a written testimonial on a candidate's ability, experience or character for submission with or in connection with that candidate's application.

## **4. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

4.1 Where the Council intends to appoint the Head of Paid Service or a Chief Officer and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

- (a) draw up a statement specifying:
    - (i) the duties of the Officer concerned; and
    - (ii) any qualifications or qualities sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way that it 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.
- 4.2 For the purpose of these Rules, the term “Chief Officer” means the holder of posts of Chief Officer within the meaning of these terms in the Local Government and Housing Act 1989 and therefore includes the holder of the post of Monitoring Officer to the Council.
- 4.3 For posts of Chief Officer, the Head of Paid Service will draw up a shortlist of suitably qualified applicants for consideration and interview by the Appointments Committee.
- 4.4 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Appointments Committee.
- 4.5 The full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made from any member of the Executive.
- 4.6 The Appointments Committee shall make appointments to the posts of Chief Officer.
- 4.7 An offer of employment as a Chief Officer shall only be confirmed where no well-founded objection has been made by any member of the Executive.

## **5. APPOINTMENTS OTHER THAN CHIEF OFFICERS**

- 5.1 Appointments of Officers below Chief Officer are the responsibility of the Head of Paid Service and his nominees, and shall not be made by the Appointments Committee.
- 5.2 Appointments to posts of Deputy Chief Officer as defined in Section 2 of the Local Government and Housing Act 1989 are delegated to the Head of Paid Service and his nominees. The Head of Paid Service will normally nominate the relevant Chief Officer who shall establish a suitable selection process within which the appropriate Executive Councillor, opposition spokesmen and Head of Paid Service shall be consulted. Such appointments are subject to Executive referral as set out in paragraph 2 of the Employment Procedure Rules of this Constitution.

## **6. DEPUTY CHIEF FINANCE OFFICER AND DEPUTY MONITORING OFFICER**

These appointments are reserved by law to be made by the Chief Finance Officer and Monitoring Officer respectively.

## **7. POWERS OF CHIEF OFFICERS IN RELATION TO EMPLOYMENT MATTERS**

- 7.1 Subject to the Employment Procedure Rules of this Constitution, the Head of Paid Service and his nominees have delegated authority to take decisions relating to staffing and personnel matters. Decisions related to the early retirement or redundancy of one or more officers, must be made in accordance with the arrangements set out in 'Early Retirement and Redundancy Policy - Notes of Guidance' issued by the Executive Director - Resources .
- 7.2 Before exercising delegated authority in respect of the following, the Officer must consult as indicated:
- (a) With the relevant Executive Councillor and any other Councillors he may consider appropriate where an employment matter may be sensitive or controversial e.g. redundancy.
  - (b) Decisions taken by the Head of Paid Service and his nominees, using the powers delegated to them, must be consistent with County Council staffing policy and the relevant legislation. Where an Officer is unclear on policy or on the interpretation or application of legislation, or is concerned that a particular course of action may have implications for other Departments or attract public comment, then before taking a decision he must consult the Executive Director with responsibility for People Management. This applies whether or not the decision relates to one of the areas listed (c) to (g) below.
  - (c) Before including in fixed term contracts clauses requiring the waiver of the right to claim unfair dismissal and/or entitlement to redundancy pay/compensation lump sum, Chief Officers should consult the Executive Director with responsibility for People Management as to the efficacy of this course of action and, as appropriate, the form of wording to be used.
  - (d) The Executive Director - Resources shall be consulted where it is proposed to pay honoraria/ex-gratia payments to a pensionable employee in the final year of service other than in circumstances where the employee is carrying out the duties of a higher graded post.

- (e) Overseas visits by Officers must be approved in advance and before departure by the Executive Director - Resources, who will prepare an annual schedule of such visits for the information of Group Leaders.
- (f) Before authorising discretionary payments to officers under the Local Authority (Discretionary Payments) Regulations 1996, the Local Government Pension Scheme Regulations, the Injury Benefits Scheme or the scheme of the reimbursement of legal costs (violence against staff), the Officer must consult the Executive Director - Resources.
- (g) Redundancy excepted, Officers shall consult the Executive Director with responsibility for People Management before dismissing an employee in circumstances which could give rise to the right to claim unfair dismissal.

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## **Part 5**

**SECTION A – STANDARDS AND VALUES**  
**SECTION B – MEMBERS CODE OF CONDUCT**  
**SECTION C – OFFICERS CODE OF CONDUCT**  
**SECTION D – OFFICER/MEMBER PROTOCOLS**

**SECTION D1 – Protocol on Officer/Member Relationships**  
**SECTION D2 – Councillor Involvement in Commercial Transactions**  
**SECTION D3 – Harassment, Intimidation and Unacceptable  
Behaviour**  
**SECTION D4 – Planning Development Control Process**  
**SECTION D5 – Confidential Reporting Code**  
**SECTION D6 – Petitions Scheme**  
**SECTION D7 – Gifts and Hospitality Protocol**

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## **LINCOLNSHIRE COUNTY COUNCIL**

### **STANDARDS & VALUES (JULY 2007)**

#### **BACKGROUND**

Lincolnshire County Council comprises:

- the Councillors and added members who form the Council;
- the Officers of the Council;

#### **POLITICAL ORGANISATION**

The way in which Councillors of relevant authorities organise themselves must fall within the statutory framework under the Local Government Act 2000. In Lincolnshire County Council at present the features of the organisation are:

- a Leader and Cabinet form of Executive;
- strong political grouping;
- proactive Leader, Deputy Leader, Chairmen and Vice-Chairmen.

#### **OFFICER ORGANISATION**

Ultimately the Head of the Paid Service is responsible to the Council for the way in which the Council's officers are managed and organised. However, the Council strongly influences the organisational structure for Officers because the Council defines Chief Officers' delegated powers and Councillors appoint the Chief Officers. In Lincolnshire County Council at present the features of the organization are:

- a corporate approach to management;
- Chief Officers with broad functional responsibilities.

#### **CULTURE AND VALUES**

It is recognised that the structure of the organisation may be less influential on the ultimate outcomes of the Council than the underpinning culture and values. Consequently, it is essential to define the values within which Councillors, added elected members and Officers work.

## VALUES STATEMENT

### **For everyone ...**

- the basis of all working is Honesty, Openness and Trust and respect for others;
- we uphold the law and act with personal integrity;
- we are working for the benefit of all people in Lincolnshire and exercise good stewardship;
- we treat staff fairly and support them in their roles.

### **In the relationships between Officers and Councillors ...**

- there is mutual respect for the distinctive roles of Officers and Councillors and added members;
- Officers serve the whole Council;
- Officers assist all Councillors and added members of the Council in their various roles and groups;
- Councillors, added members and Officers act in a co-operative manner;
- Officers diligently implement the lawful wishes of the Council.

### **Councillors and Non-elected Members ...**

- respect the rights of fellow Councillors and added members of all political views;
- value Officers' impartiality;
- recognise that actions must accord with approved policies and procedures;
- adhere to the Councils adopted Code of Conduct.

### **The Corporate Management Board ...**

- offers independent, professional advice to the Council;
- supports team working;
- promotes innovation, high performance and public service;
- the Chief Executive will Chair the Corporate Management Board and all Officers will share corporate responsibility.

### **Maintaining these values and standards ...**

These values need to be lived and not just written down. Positive steps need to be taken to ensure that the culture of the County Council reflects these aspirations.

Therefore, the Corporate Management Board will:

- seek the views of Councillors and added members and Officers to establish how well the County Council lives up to these ideals;
- make assessments of how well the stated values are being implemented;
- prepare action plans to correct any failings;
- undertake development programmes within the Council to promote these values.

## LINCOLNSHIRE COUNTY COUNCIL

### GOOD PRACTICE GUIDE TO MEETING THE VALUES OF THE AUTHORITY

*The County Council operates within codes of conduct and practice that are backed by law and are supervised by the Audit Committee of the County Council. This Good Practice Guide is not intended to replace those rules, but to be illustrative of how its values would be demonstrated.*

Values	Illustrative good practice
...the basis of all working is honesty, openness and trust and respect for others.	<ul style="list-style-type: none"> <li>• <i>There is commitment to maximising transparency.</i></li> <li>• <i>People feel confident to contribute in the knowledge that their contributions will be respected.</i></li> <li>• <i>People speak openly without fear of retribution.</i></li> </ul>
...we uphold the law and act with personal integrity.	<ul style="list-style-type: none"> <li>• <i>People do not put themselves in situations where their honesty and integrity could be questioned.</i></li> <li>• <i>Officers are valued for their integrity.</i></li> </ul>
...we are working for the benefit of all people in Lincolnshire and exercise good stewardship.	<ul style="list-style-type: none"> <li>• <i>There is a focus on how outcomes will affect our Members of the Public rather than the organisation.</i></li> <li>• <i>Services are delivered within approved policies.</i></li> <li>• <i>Actions of the Council are socially inclusive.</i></li> <li>• <i>Resources are used prudently.</i></li> <li>• <i>Actions promote social, economic and environmental well being.</i></li> <li>• <i>Equal opportunities standards are achieved.</i></li> </ul>
...treats staff fairly and support them in their roles.	<ul style="list-style-type: none"> <li>• <i>The principles of Investors in People are evident.</i></li> <li>• <i>Officers are confident in taking on their responsibilities.</i></li> <li>• <i>Officers feel they are able to talk openly with their managers and vice-versa.</i></li> <li>• <i>Personnel policies are applied fairly.</i></li> </ul>
...there is mutual respect for the distinctive roles of Officers and Councillors and added members.	<ul style="list-style-type: none"> <li>• <i>Officers are conscious of Councillors' unique position as elected representatives of the people.</i></li> <li>• <i>Officers respect different political viewpoints.</i></li> <li>• <i>Officers act as advocates for Council policies.</i></li> <li>• <i>Councillors respect professional viewpoints.</i></li> <li>• <i>Councillors and Officers value and understand the roles of the Head of the Paid Service, Monitoring Officer and Section 151 Officer.</i></li> </ul>

...Officers serve the whole Council.	<ul style="list-style-type: none"> <li>• <i>Officers provide impartial, professional advice. Acces to information should be maximized.</i></li> </ul>
...Officers assist all Councillors and added members in their various roles	<ul style="list-style-type: none"> <li>• <i>Officers assist Councillors and added members in all aspects of their duties, including informed opposition.</i></li> </ul>
...Councillors, added members and Officers act in a co-operative manner.	<ul style="list-style-type: none"> <li>• <i>Officers work with Councillors in their role as community representatives.</i></li> <li>• <i>Officers work with Councillors to implement the programme approved through the Council.</i></li> <li>• <i>Officers work with all Councillors and added members in the roles of policy development and scrutiny.</i></li> </ul>
...Officers will diligently implement the lawful wishes of the Council.	<ul style="list-style-type: none"> <li>• <i>Officers are working to implement all decisions diligently whether or not their advice was taken.</i></li> <li>• <i>Officers are aware of the decisions of the County Council in areas that are not their direct responsibility.</i></li> </ul>
<p><b><u>Councillors and non-elected members</u></b></p> <p>...recognise rights of fellow Councillors and added members.</p>	<ul style="list-style-type: none"> <li>• <i>Councillors and added members show each other mutual respect.</i></li> <li>• <i>Councillors and added members co-operate to deal with Council business openly and efficiently.</i></li> </ul>
...recognise Officers' Impartiality.	<ul style="list-style-type: none"> <li>• <i>Councillors and added members respect duties and confidentiality owed by Officers to other Councillors and added members.</i></li> </ul>
...recognise that actions must accord with approved policies and procedures.	<ul style="list-style-type: none"> <li>• <i>Councillors and added members do not put pressure on Officers to work outside the Council's policies and procedures.</i></li> </ul>
<p><b><u>Corporate Management Board</u></b></p> <p>...offers independent, professional advice to the Council.</p>	<ul style="list-style-type: none"> <li>• <i>CMB Chief Officers give balanced and complete advice including that which may be unwelcome.</i></li> <li>• <i>All Officers work within their professions' codes of conduct.</i></li> </ul>

...supports team working.	<ul style="list-style-type: none"> <li>• <i>CMB Chief Officers support one another at all times and work co-operatively within the Board.</i></li> <li>• <i>CMB Chief Officers respect each other's views and welcome contributions to debate.</i></li> <li>• <i>Cross-directorate teams are resourced and supported actively by CMB.</i></li> <li>• <i>CMB Chief Officers encourage team working within their own Directorates.</i></li> </ul>
...promotes innovation, high performance and public service.	<ul style="list-style-type: none"> <li>• <i>Change is seen as an opportunity.</i></li> <li>• <i>Measures are in place to monitor and manage performance.</i></li> <li>• <i>Risks associated with innovation are carried by the organisation rather than by individuals.</i></li> </ul>

## MEMBERS CODE OF CONDUCT

## SECTION B

### Lincolnshire County Council Members' Code of Conduct

The activities of all in public life should be guided by the 7 principles of Public Life, also known as the Nolan Principles. These are set out below:-

#### 1. **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### 2. **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### 3. **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### 4. **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### 5. **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### 6. **Honesty**

Holders of public office should be truthful.

#### 7. **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



The County Council has adopted this Code of Conduct setting out the expected behaviours required of its members and added members, acknowledging that they have a shared commitment to representing the community and working constructively and in a spirit of mutual respect and co-operation with each other, Council staff and partner organisations to secure better social, economic and environmental outcomes for all.

As the Nolan Principles are the standards expected of all in public life the Code is closely based on but not identical to the Nolan Principles. In particular compliance with the Code does not in itself guarantee that member conduct is consistent with the Nolan Principles. The Code does not therefore detract from the need for members always to have regard to the Principles in guiding their conduct.

In accordance with the Localism Act provisions, when acting in their capacity as Councillors, all Councillors must be committed to behaving in a manner that complies with the following Code.

## **THE CODE**

### **SELFLESSNESS:**

Councillors must act solely in terms of the public interest. This means they must not act in order to gain financial or other material benefits for themselves, their family, or their friends. They must not use their position improperly to confer an advantage or disadvantage on any person.

### **INTEGRITY:**

Councillors must not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Councillors must comply with the Gifts and Hospitality Protocol in Part 5 of the Constitution.

### **OBJECTIVITY:**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Councillors must make choices on merit.

### **ACCOUNTABILITY:**

Councillors are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

This means Councillors will co-operate with the Monitoring Officer or Local Hearing Panel in the course of consideration, investigation or determination of any complaint brought under this Code of Conduct.

## **OPENNESS:**

Councillors must act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

A Councillor must not, without the consent of the Council or as required by law, disclose information which is

- Contained within an exempt or confidential report within the meaning of the Local Government Act 1972; or
- Which is otherwise confidential to the Council or shared with the Councillor under conditions of confidentiality

Councillors must not disclose any information given to them under conditions of confidentiality by any other person except to the extent that such a disclosure is permitted by law – e.g. due to overriding public interest.

## **HONESTY:**

Councillors have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

This means Councillors will comply with the law relating to disclosable pecuniary interests.

Councillors should be aware that the requirement to resolve conflicts arising in a way that protects the public interest may on occasion require them to disclose interests other than disclosable pecuniary interests and to take no part in debates or votes which engage those interests.

## **RESPECT:**

Councillors must at all times show respect to each other, staff and members of the public and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. Councillors may not always agree with the political views of their member colleagues, but they respect the right for those views to be held.

This means in particular that Councillors will not bully or harass any person. This means, for example, that they will not:-

- use offensive intimidating malicious or insulting behaviour or abuse or misuse power to undermine, humiliate, criticise unfairly or injure any person; or
- be guilty of unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Section D3 of Part 5 of the Constitution – Protocol on Harassment Intimidation and Unacceptable Behaviour gives more detail on these behaviours and applies between members and officers.

## **LEADERSHIP:**

Councillors promote and support these principles by leadership and example.

## **NOTE ON SOCIAL MEDIA**

Councillors should note that this Code of Conduct governs their activities on social media in the same way that it governs other activities and councillors should be mindful that the ease of use and very public nature of social media may carry additional risks of breaches of the Code.

## **NOTE ON PLANNING DEVELOPMENT CONTROL**

Section D4 of Part 5 of the Constitution – Planning Development Control Process sets out supplementary requirements in relation to planning which shall form part of this Code of Conduct.

## **NOTE ON DISCLOSABLE PECUNIARY INTERESTS**

The Localism Act 2011 further provides for registration and disclosure of interests and in Lincolnshire County Council this will be done as follows:

On taking up office a member or added member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.

On re-election or re-appointments, a member or added member must, within 28 days, notify the Monitoring Officer as if for the first time of any 'disclosable pecuniary interests' whether or not such 'disclosable pecuniary interests' were already included in his or her previous register of interests.

If a member or added member is aware that they have a 'disclosable pecuniary interest' in a matter they must not participate in any discussion or vote on the matter at a meeting and if present at the meeting must leave the room during discussion of the matter.

If a member or added member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting but such an interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or added member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it was first disclosed.

## GIFTS AND HOSPITALITY PROTOCOL

### 1. CONTEXT

- 1.1 The Council's Members' Code of Conduct sets out the expected behaviours of its members and co-opted members. They are required to serve the public interest rather than act in order to gain financial or other benefits for themselves. They must not place themselves under any financial or other obligation to anyone who might seek to influence them in their official duties.

### 2. CAN GIFTS OR HOSPITALITY BE ACCEPTED?

- 2.1 There may be occasions when members of the Council are offered gifts or hospitality during the course of Council business. Before accepting such gifts or hospitality members should consider whether this would put at risk the integrity and reputation of the member, or the Council.
- 2.2 If gifts or hospitality are offered and their value is £50 or over for a single gift/hospitality or £100 or over for all gifts/hospitality from a single source in any year, members and co-opted members must register this on the form available from Democratic Services) within 28 days of receiving the offer of a gift or hospitality. The entry in the register should include the date, source and value of the gift or hospitality and whether or not the gift or hospitality was accepted. Any entries will be published on the Council's website.
- 2.3 The Monitoring Officer can advise on the matters to be taken into account in deciding whether a gift or hospitality can be accepted, taking into account any connection the member has with the person or organisation making the offer, but it will be a matter for the member to make the decision as to whether to accept or decline.
- 2.4 In deciding whether it is proper to accept any gift or hospitality members should:
- **Never accept a gift or hospitality as an inducement or reward for anything they do as a Member**  
Members must not be influenced in the discharge of their duties by the offer of a gift.
  - **Only accept a gift or hospitality if there is a commensurate benefit to the Council**  
Unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for the Member's benefit.
  - **Never accept a gift or hospitality if acceptance might be open to misinterpretation**

Perceived impropriety can be just as damaging as actual impropriety. Members should take care to ensure that the impression is not given that they or the Council are under any improper obligation because of the gift or hospitality.

- **Never accept a gift or hospitality that puts them under an improper obligation**  
Members must not give the impression that commercial organisations and private individuals can buy influence.
- **Never solicit a gift or hospitality**  
Members must not invite an offer of a gift or hospitality in connection with their position as a member and they should take care to avoid giving any indication that they might be open to such an improper offer.

***Note: Regardless of the requirements of the Council in relation to gifts and hospitality, under the Bribery Act 2010 the acceptance of a gift or other advantage as an inducement to behave in a certain way in a Council transaction is a criminal offence, with a maximum sentence of ten years in jail.***

### 3. GIFTS

- 3.1 As a general rule gifts should be refused tactfully, this includes all such offers from organisations or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council. These rules also apply to discounts offered to an individual member going beyond those offered to the general public (other than those available to all Members and Officers).
- 3.2 As general guidance, the following small gifts worth under £50 may occasionally be accepted (providing that they do not conflict with the General Principles listed in 2 above):
- (a) Office equipment or stationery given by way of trade advertisements or for use in the office. Examples would be pens, mugs, calendars or diaries. (NB: Members should take care not to display any such branded items when this might be taken as an endorsement or indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise).
  - (b) Gifts of only token value given on the conclusion of an official courtesy visit, for example, a commemorative plaque from a visiting delegation. A box of chocolates or flowers valued less than £50 could be accepted provided they are given as a genuine show of appreciation of work undertaken, but they should never be accepted if it could give rise to an appearance of influence or reward.

## 4. HOSPITALITY

- 4.1 Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.
- 4.2 Where hospitality is accepted it must be on a scale appropriate to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it and may later be thought to have affected a member's impartiality in dealing with official matters.
- 4.3 Examples of hospitality that should always be refused include offers of holiday accommodation. Others will need to be considered on their facts. For example invitations to sporting events, evenings at the theatre or similar entertainment, should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council, **not the individual member**.
- 4.4 It will not always be possible to reject offers of hospitality. Acceptable hospitality is that not exceeding £50 in value, such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. Members should never accept hospitality that may give rise to appearance of influence or reward.

## 5. WILLS AND BEQUESTS

- 5.1 If there is a connection between the work of a member and them being a beneficiary under a will they will need to consider that benefit carefully in accordance with the General Principles listed in 2 above. Members should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

## 6. GIFTS TO THE COUNCIL

- 6.1 Members may be offered gifts for the Council rather than in their individual capacity as a member. In such cases the offer should be reported immediately to the Monitoring Officer who will determine in accordance with normal Council processes whether the Council should or should not accept the gift.
- 6.2 The Monitoring Officer will notify the person or organisation offering the gift whether it is accepted or not and will:
- Record the acceptance or non-acceptance
  - Record the outcome for audit purposes
  - Ensure the gift, if accepted, is properly applied for the benefit of the Council

## **7. GIFTS TO THE CHAIRMAN**

- 7.1 Gifts received by the Chairman of the Council in his or her official capacity are deemed to be gifts to the Council. The Chairman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they could be used for the benefit of the Council.

## **8. DECLARATIONS AT MEETINGS**

- 8.1 If a matter under consideration at a meeting is likely to affect a person or organisation who has given a member a gift or hospitality, the member must declare the existence and nature of the gift or hospitality, the source who gave it to them and how the business under consideration relates to that source.

## **LOCAL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBERS UNDER THE LOCALISM ACT 2011**

### **1. Introduction**

- 1.1 These "arrangements" set out how you may make a complaint that an elected or co-opted member of Lincolnshire County Council (the Council) has failed to comply with the Council's Code of Conduct. They also set out how the Council will deal with any complaints of a failure to comply with the Code of Conduct.
- 1.2 The Council must appoint at least one Independent Person, whose views must be sought by the Council before it makes a decision on an allegation that it has decided to investigate. The Independent Person may also be consulted by the Monitoring Officer at any stage of these arrangements and may be consulted by a Member. References to the Independent Person in this document are references to any person appointed by the Council as an Independent Person at the given time.
- 1.3 These arrangements reflect the commitment of Group Leaders to maintaining high standards of conduct and their wish to demonstrate that commitment by playing a leading role.

### **2. Making a Complaint**

- 2.1 A complaint must be made in writing by post or e-mail to:

The Monitoring Officer  
County Offices  
Newland  
Lincoln  
LN1 1YS

E-mail: [monitoring.officer@lincolnshire.gov.uk](mailto:monitoring.officer@lincolnshire.gov.uk)

- 2.2 Any complaint must provide sufficient detail about why the person complaining (the Complainant) considers that there has been a failure to comply with the Code of Conduct .
- 2.3 The Council will not consider anonymous complaints unless there is a clear public interest in doing so. In the interests of transparency and fairness, the identity of the Complainant will be made known to the subject of the complaint (the Subject Councillor) and those who have to deal with the complaint. When a Complainant requests confidentiality, this will be considered by the Monitoring Officer who retains ultimate discretion as to whether to release details to the Subject Councillor or other officers.
- 2.4 The Monitoring Officer's decisions at all stages are final and there is no right of appeal or review of their decision.



### **3. Initial Assessment of a Complaint**

- 3.1 On receipt of a complaint the Monitoring Officer will acknowledge receipt within five working days and inform the Complainant what will happen next. The Monitoring Officer will also inform the Subject Councillor and relevant Group Leader that a complaint has been received. The Monitoring Officer will keep the Complainant, Subject Councillor and relevant Group Leader informed of progress at regular intervals.
- 3.2 The Monitoring Officer will then carry out an initial assessment of the complaint. At this initial assessment stage, the Monitoring Officer will review the complaint and may consult the Independent Person before making a decision about whether to take any further action concerning the complaint. The Monitoring Officer may require further information from the Complainant or Subject Councillor before making a decision on the initial assessment.
- 3.3 No further action will be taken on any complaint if, the opinion of the Monitoring Officer:-
  - 3.3.1 the behaviour complained of falls outside of the Code of Conduct; or
  - 3.3.2 the Subject Councillor was not acting in their capacity as a member of the County Council.
- 3.4 Whether the Subject Councillor was acting in their capacity as a member of the County Council is a judgment to be made in individual cases. Relevant considerations will include the degree to which the behaviour was public including whether it involved the use of publicly available social media and whether the Subject Councillor claimed to act or gave the impression that they were acting in their capacity as a member or representative of the County Council.
- 3.5 A complaint will not normally progress beyond the initial assessment stage if it is considered by the Monitoring Officer to be within any of the following criteria:-
  - 3.5.1 If the complaint is the same or substantially the same as a previous complaint (regardless of whether it is the same Complainant);
  - 3.5.2 If the time since the alleged behaviour is significant so as to be inequitable, unreasonable or otherwise not in the public interest to pursue;
  - 3.5.3 If the complaint (in the view of the Monitoring Officer) discloses only a minor or trivial breach of the Code of Conduct that it is not in the public interest to pursue;
  - 3.5.4 If the complaint is or appears to be (in the view of the Monitoring Officer) malicious or otherwise submitted with an improper motive and the complaint is not considered to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;

- 3.5.5 If the complaint is considered by the Monitoring Officer to be persistent and/or vexatious and is not considered (in the view of the Monitoring Officer) to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;
  - 3.5.6 If the Subject Councillor has remedied or made reasonable endeavours to remedy the subject matter of the complaint and the complaint does not (in the view of the Monitoring Officer) disclose sufficiently serious potential breaches of the Code of Conduct; and
  - 3.5.7 If the complaint is about a person who is no longer a member of the Council and there is (in the view of the Monitoring Officer) no overriding public interest in pursuing the complaint further.
- 3.6 The standards complaints process does not exist to determine how well a member or co-opted Member fulfils their role on the Council or determine dissatisfaction on the part of a resident as to the way a member has responded to their concerns. Examples would include delay or failure to respond. These are matters for the democratic process with which it would be inappropriate for the Monitoring Officer to become involved. If in the view of the Monitoring Officer a complaint relates to the Subject Councillor's fulfilment of their role they will refer the complaint to the relevant Group Leader to consider.
- 3.7 These arrangements are not intended to apply to allegations of criminal offences or other regulatory breaches which will be referred by the Monitoring Officer to the Police or other regulatory body. If the matter is referred to the Police or other relevant regulatory body the Monitoring Officer will take no further action on the complaint.
- 3.8 If, following the initial assessment, the Monitoring Officer determines that no further action should be taken, the Monitoring Officer will notify the Complainant of this fact and the reasons for their decision. The Monitoring Officer will also notify the Subject Councillor (copying the relevant Group Leader) with details of the decision made and the reasons for the same.
- 3.9 If, following the initial assessment, the Monitoring Officer determines that further action should be taken, the Monitoring Officer may
- 3.9.1 Arrange appropriate actions (e.g. mediation or training);
  - 3.9.2 Refer the complaint to the relevant Group Leader for informal action; or
  - 3.9.3 Arrange a formal investigation of the complaint.
- 3.10 The Monitoring Officer will inform the Complainant, the Subject Councillor and the relevant Group Leader of the result of the initial assessment within 15 working days of receipt of the complaint by the Monitoring Officer or if further

information is required under paragraph 3.2 above, within 15 working days of receipt of all such further information.

#### **4. Where further action is required**

- 4.1 Where the Monitoring Officer (in consultation with the Independent Person) considers that the complaint should progress beyond the initial assessment stage and that some form of action should be taken, they will inform the Subject Councillor and relevant Group Leader of their decision. The Monitoring Officer will seek representations from the Subject Councillor, will consult with the relevant Group Leader and may consult with the Independent Person before determining the next steps.
- 4.2 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Where the Subject Councillor makes a reasonable offer of informal resolution which the Complainant is not willing to accept, the Monitoring Officer will take this into account when deciding whether the complaint merits formal investigation.
- 4.3 In determining whether to proceed to a formal investigation the Monitoring Officer will consider:-
  - 4.3.1 whether there is evidence to support the complaint;
  - 4.3.2 whether the subject matter is something that it is possible to investigate;
  - 4.3.3 whether an investigation would be proportionate; and
  - 4.3.4 whether the behaviour complained of has a sufficiently significant impact on public perception of or trust in the Council or local democracy that an investigation would be in the public interest.
- 4.4 Where the Monitoring Officer determines that a formal investigation is required, they will appoint a suitable person to investigate the complaint.
- 4.5 Where the Monitoring Officer, in consultation with the Independent Person, on the basis of the results of the investigation finds that there has not been a breach of the Code of Conduct, the Monitoring Officer will notify the Subject Councillor, Group Leader and Complainant of the outcome.
- 4.6 Where the Monitoring Officer, in consultation with the Independent Person, on the basis of the investigation, finds that a breach of the Code of Conduct has occurred, the Monitoring Officer may seek to resolve the matter informally or make arrangements for a Local Hearing.

#### **5. A Local Hearing**

- 5.1 A Local Hearing will be conducted by at least three non-Executive members of the Council from at least two political groups, drawn from the Audit Committee of the Council as nominated by the Chairman of the Audit Committee. The

Chairman of the Audit Committee will consult with Group Leaders on these nominations.

- 5.2 The Local Hearing will be conducted in accordance with the Hearing Process attached at Appendix A to these arrangements.
- 5.3 Where the Local Hearing determines that a breach of the Code of Conduct has occurred they will, except in the circumstances described in paragraph 5.4, make recommendations to the relevant Group Leader who will decide the appropriate actions and notify the Subject Councillor and the Monitoring Officer. The Monitoring Officer will notify the Complainant.
- 5.4 Where the Local Hearing, having consulted with the Independent Person, decides that a breach has occurred and that the breach is of extreme seriousness the Local Hearing may determine that a motion of censure or reprimand of the Subject Councillor be referred to the next full Council meeting.
- 5.5 The Monitoring Officer or Local Hearing have no power to suspend or disqualify the Subject Councillor, to withdraw Member's basic or special responsibility allowances or to recommend other outcomes.

## **6. Special Applications**

- 6.1 In cases where the Subject Councillor complained about is not part of a recognised political grouping, the Monitoring Officer will proceed as detailed above save from liaison with any Group Leader.
- 6.2 In cases where the complaint is against a Member who is a Group Leader, the Monitoring Officer will proceed as detailed above save that the Monitoring Officer will consult a Senior Member from outside the Council (nominated for that purpose in advance of any complaint by the Group Leader) in all cases where they would have consulted a Group Leader. In such cases, the Local Hearing will consult that Senior Member in addition to the Independent Person. In such cases the Local Hearing will make recommendations as to the action to be taken under paragraph 5.3 above to the relevant Deputy Group Leader who will decide the appropriate action to be taken.
- 6.3 Where the Monitoring Officer is unable to act in relation to these arrangements by reason of any conflict of interest or otherwise he may appoint a Deputy Monitoring Officer for the purpose from within the Council or appoint an independent Monitoring Officer from another authority to act as Monitoring Officer for the purposes of this arrangement.

## **7. Revision of these Arrangements**

- 7.1 The Council may by resolution agree to amend these arrangements and has delegated to the Monitoring Officer the right to depart from these arrangements where they consider that it is expedient to do so to secure the effective and fair consideration of any matter.

## **8. Appeals**

- 8.1 There is no right of appeal for the Complainant or Subject Councillor against a decision of the Monitoring Officer or the decision or recommendations of the Local Hearing. If a Complainant believes that the Council has failed to deal with their complaint properly, they may submit a complaint to the Local Government Ombudsman.

**LOCAL HEARING UNDER THE MEMBERS CODE OF CONDUCT**

**HEARING PROCESS**

**Introduction**

- 1 This document sets out the Procedure to be followed at meetings of a Local Hearing Panel constituted under paragraph 5 of the Local Arrangements for Dealing with Standards Complaints under the Council's Constitution.
- 2 The role of the Panel is to consider the Investigators Report and representations, the Subject Councillor's representations and to consult the Independent Person and decide whether there has been a breach of the Members Code of Conduct.

**Persons Attending**

- 3 The following persons shall be in attendance at the Hearing which shall be conducted in private.
  - 3.1 the Panel;
  - 3.2 the Monitoring Officer;
  - 3.3 the Independent Person;
  - 3.4 a clerk to take notes of the Hearing
  - 3.5 the Subject Councillor";
  - 3.6 one person to accompany and assist the Subject Councillor; and
  - 3.7 the investigator.

**Notice of the Hearing**

- 4 At least 7 days' notice of the Hearing will be given to the Panel, the Subject Councillor and the investigator unless a shorter time is agreed at the request of the Subject Councillor. The notice shall be accompanied by the investigator's report and accompanying documents and a copy of this Hearing Process.

**Process at the Hearing**

- 5 The process at the Hearing will be as follows:-
  - 5.1 The Panel Chairman will make introduction and explain the process to be followed;

- 5.2 The investigator will present their Report and conclusions and the evidence on which it is based;
  - 5.3 The Subject Councillor will have an opportunity to ask questions of the investigator;
  - 5.4 The Panel and Independent Person will have an opportunity to ask questions of the investigator;
  - 5.5 The Subject Councillor presents his or her case;
  - 5.6 The investigator will have an opportunity to ask questions of the Subject Councillor;
  - 5.7 The Panel and Independent Person will have an opportunity to ask questions of the Subject Councillor;
  - 5.8 The investigator summarises the results of their investigation;
  - 5.9 The Subject Councillor summarises his or her response including making any representations as to the steps he or she would wish the Panel to take if it decides that there has been a breach of the Members Code of Conduct; and
  - 5.10 The Panel Chairman declares the Hearing to be closed.
- 6 When the Panel Chairman declares the Hearing closed the Councillor and the investigator will withdraw.
  - 7 The Panel will deliberate taking advice on issues from the Independent Person and on process from the Monitoring Officer.
  - 8 On reaching a decision the Subject Councillor and the investigator will be called in and the Panel Chairman will inform the Subject Councillor of their decision and, where their decision is that there has been a breach of the Members Code of Conduct, whether they will make recommendations to the relevant Group Leader or put a motion of censure to the Council.

### **After the Hearing**

- 9 As soon as reasonably practicable after the Hearing the Monitoring Officer will prepare a formal decision notice in consultation with the Panel Chairman and send a copy to the Subject Councillor and (where applicable) the Subject Councillor's Group Leader. The decision notice will include the reasons for the decision.
- 10 The Monitoring Officer will send the decision notice to the complainant and make the decision notice available for public inspection on the expiry of two working days after the formal decision notice was sent to the Subject Councillor and (where applicable) Group Leader and will report the decision to the next convenient meeting of the Audit Committee.

## OFFICERS' CODE OF CONDUCT

## SECTION C

The purpose of the Code of Conduct is to supplement an employee's terms and conditions of employment and to support the Council's Vision, Purpose, Values and Behaviours, which can be found on the 'People Make it Happen' site on the Council's Intranet, George.

### LINKS WITH OTHER POLICIES

The Code of Conduct draws together policies and requirements of the Council and aims to assist employees in performing their duties to the best of their ability.

Employees are required to familiarise themselves with the contents of the Code and the documents referred to therein. It cannot cover every eventuality and if in any doubt or any additional guidance is required, employees should consult their Manager/Human Resources/People Management contact.

The Code applies to all employees of the Council. A breach of the Code may lead to disciplinary action – see the disciplinary rules in the Council's Disciplinary Policy.

This Code of Conduct also encompasses guidelines from the National Code of Conduct. It is also based upon the key principles of public life recommended by the Committee on Standards in Public Life (The Nolan Committee) and a complementary set of guidelines are issued to County Councillors.

These principles are as follows:

#### **1 HONESTY, INTEGRITY, IMPARTIALITY AND OBJECTIVITY**

**An employee must perform their duties with honesty, integrity, impartiality and objectivity.**

Employees serve the Council as a whole and have individual responsibility as part of their job roles for implementing policy, delivery of services and operational management of the Council.

Those employees, where it is part of their duties, will work at senior level with political sensitivity to advise and support members, will ensure members have appropriate and timely information on key issues and decisions; and will give members independent and professional advice, not influenced by political views or preferences.

It is also vital that employees understand that it is not just about reality it is also about perception. The public has a right to expect the highest levels of integrity and responsibility from all employees. This must be capable of demonstration and therefore actions, which would lead to a loss of confidence through perceptions, are as critical as any others.



## **Political Neutrality**

Employees serve the Council as a whole and are required to serve all councillors and not just those of the controlling group. Employees in their job may also be required to advise political groups. Employees should not be involved in advising any political group, nor in attending any of their meetings, without the express consent of their Manager/Director and must not compromise their political neutrality. As an employee of the Council employees are required to serve the Council and cannot, therefore, be accountable to individual Political Groups and must not allow their personal political opinions to interfere with their work.

Part 1 of the Local Government and Housing Act 1989 imposes certain restrictions on employees of local authorities if they hold what is known as a politically restricted post or are employed in a post which could be described as 'politically sensitive'.

These arrangements were changed slightly as a result of the Local Democracy, Economic Development and Construction Act 2009. The political restriction is now limited to the role of the employee rather than previously by salary level.

The terms of restriction constitute contractual provisions.

Employees seeking further details should check with their Manager/Human Resources/People Management contact or see the Council's Policy and Procedure on Politically Restricted Posts which incorporates advice on Local Authority Employees standing for Election.

## **2 ACCOUNTABILITY**

**An employee must be accountable to the authority for their actions.**

### **Compliance with Legislation, Terms and Conditions of Service and other written guidelines**

During the course of work employees should at all times be aware of and comply with all relevant legislation; for example the Health and Safety at Work Act 1974, the Equality Act 2010, the Data Protection Act 1998, Freedom of Information Act 2000, The Computer Misuse Act 1990 etc. and legislation relating to each service area. However this list is not exhaustive.

### **Safeguarding**

Employees working with children and adults have a responsibility to safeguard and promote the welfare of children and adults during the course of their work.

### **Conditions of Service**

Employees should also have read and understood the conditions of service under which they are employed, including all local policies, which take into account all legislation and the local and national schemes. These policies are contained within the Council's Employment Manual or for further information contact Human Resources/People Management. In particular employees should be aware of:

- The Grievance and Dignity at Work procedures in order to express individual and personal concerns
- The Disciplinary Policy which also contains the disciplinary rules

- Equality and Diversity in Employment – ‘It’s Only Fair’

All Council employees must ensure that policies relating to equality issues are complied with in addition to the requirements of the law. All members of the community, clients and other employees have the right to be treated with fairness and equity regardless of race, colour, nationality, ethnic or national origins, religion or belief, gender, gender reassignment, sexual orientation, marital status, civil partnership status, disability or age.

Employees should ensure that they are aware of and follow the advice and guidance about using ‘social media’ as contained in the Social Media Policy. The term ‘social media’ includes websites, online tools, blogs and other Interactive Communication Technologies (ICT). The Social Media Policy applies to all service areas, employees engaged on council business and employees’ personal use of social media where it could be deemed to have a negative impact on the Council’s reputation.

The Social Media Policy is available on the Council’s internet, and other related policies, including the IT and E-mail Policies, can be viewed via George. Employees should also comply with the related legislation and guidance that informs Information Governance.

Employees should be suitably dressed for their duties and responsibilities, including the wearing of appropriate safety clothing and equipment, in accordance with all Health and Safety regulations.

In addition, employees should be conscious of, and ensure that they are complying with, any other specific guidelines issued by their Service/Director Area. If an employee is a member of a professional institute or association they are also obliged to comply with any professional code and/or standards of practice pertaining to that organisation e.g. GTC Teachers code of conduct, accountancy professional bodies’ codes of conduct, social care codes of conduct.

### **3 RESPECT FOR OTHERS**

**An employee must:**

- a) treat others with respect,**
- b) not discriminate unlawfully against any person; and**
- c) treat members and co-opted members of the authority Council professionally.**

## **Dignity at work**

### **Employees**

The working environment of the Council is one where all its employees are treated with dignity and respect. There should be mutual respect between all employees. The Council has procedures in place to deal with harassment, discrimination, victimisation and bullying.

### **Councillors**

For some employees, their role is to give advice to councillors and all are there to carry out the business of the Council. 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. Employees who have or enter into a personal relationship with a councillor should declare this to their Line Manager.

## **The Local Community and Service Users**

As a local government employee, employees 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. In carrying out duties and responsibilities, an employee's honesty and integrity must be beyond question. Employees must never use their authority or position for personal gain, or to enable colleagues or others to gain personally. An employee's own Service or Director Area may have its own customer care policy in addition to these guidelines. Please also refer to the Council's Corporate Customer Service Policy.

## **Contractors**

All relationships of a business or private nature with external contractors or potential contractors of the Council should be made known to the appropriate manager in the department. Orders and contracts must be awarded on merit in fair competition with other tenders and no part of the local community should be discriminated against or special favours shown.

## **Financial**

If an employee discovers that a contract in which they have a financial or other interest has been or could be entered into by the Council they are required under Section 117 of the Local Government Act 1972 to advise their Manager/Director in writing.

### **4 STEWARDSHIP**

**An employee must:**

- a) use any public funds entrusted to or handled by themselves in a responsible and lawful manner,**
- b) not make personal use of property or facilities of the Council unless properly authorised to do so.**

## **Patent and Copyright**

### **Patent**

Any matter, item or idea capable of being patented under the Patents Act, which is developed or discovered by an employee, alone or together with colleagues, in the course of their duties, must be disclosed to their manager, and subject to provisions of the Act belongs to the Council.

It is the responsibility of the Council in the first instance to decide whether to apply for patent or other protection in law for any invention, which belongs to the Council by virtue of the Patents Act.

## **Copyright**

All records, documents and other papers relating to the finance and administration of the Council and which are compiled or acquired by an employee in the course of their employment are and will remain the property of the Council, and the copyright in all such cases belongs exclusively to the Council.

In the case of academic work, such as projects undertaken as part of a course to further their professional career, and including books, contributions to books, articles and conference papers, the copyright will belong to the employee.

## **Care and Use of Council Resources**

Council resources, whether tangible assets such as materials, equipment and cash, or business information such as trade secrets, may not be used other than for the proper advancement of the business of the authority.

All equipment belonging to the Council should be treated with due care and respect. Any employee wishing to use an item of equipment, for example a photocopier, word- processor or printer, for business other than that of the Council, must gain permission from their manager in advance.

## **Security and Use of Computer Data/Equipment**

The information stored and processed on the information technology systems operated by the Council is of paramount importance to its day to day activities. It is essential that data and systems are adequately secured against risks such as operator errors, theft of equipment, unauthorised access to or copying of programmes, use of unauthorised software on Council machines (which increases the risk of importing computer viruses) and natural hazards such as fire, flood and power failures.

Relevant legislation, in the form of the Data Protection Act 1998 and the Computer Misuse Act 1990 must be complied with. Copies of these Acts are available from Legal Services. Further advice is available from Information Governance.

Employees must ensure that no unauthorised person gains access to equipment/data, which is within their responsibilities. No data should be released unless finally approved and that conforms with Data Protection legislation. User identifications and passwords must not be disclosed to anyone, and passwords must be changed regularly to a previously unused password. For further guidance on computer security and Information Governance, please see the Council's Corporate Information Security Policy via George.

Council policies apply to e-mail use in the same way as normal mail and use of the telephone. Misuse and time wasting is unacceptable and personal messages should be kept to a minimum. E-mail must not be used to undertake personal business for monetary gain.

Under the law, if an e-mail message is sent during the course of an employee's employment which is defamatory, the employer is liable even if the message is sent between one employee and another. E-mails are not normally deleted from the system and are available for audit purposes. The tone and content of messages

should be appropriate and consistent with any other form of Council communication.

For further guidance on email use please refer to the Council's Email Policy contained in the Corporate Information Security Policy via George.

Personal use of the Internet, including Social Media, is permitted by employees provided that the Internet and Intranet Policy contained in the Corporate Information Security Policy and Social Media Policy are adhered to and it does not impact on their job or interfere with the performance of other staff doing their job. There should be no access to sites which have a terrorist, offensive, sexual or game playing/gambling content. Access to the internet is monitored on a regular basis.

Any breaches of the Corporate Information Security Policy may lead to disciplinary action being taken against the employee(s) involved.

Employees should have read and understood the Corporate Information Security Policy which is available on LCC Connects.

## **5 PERSONAL INTERESTS**

**An employee must not in their official or personal capacity:**

- a) allow their personal interests to conflict with the Council's requirements; or**
- b) use their position improperly to confer an advantage or disadvantage on any person.**

### **Alcohol/Drugs**

The Council has a policy on the Prevention of Alcohol and Drug misuse, which is aimed at ensuring that employees report fit for work and remain fit to perform their duties. The consumption of alcohol is not permitted on Council premises unless specifically approved by the Manager. The Council prohibits the use, possession, distribution or sale of drugs at the work-place, or when conducting Council business (see the Prevention of Alcohol and Drug Misuse Policy in the Health and Safety Manual).

Where it is established that there is an alcohol or drug dependency problem, this will be considered as a treatable illness and managers will provide assistance wherever possible. The Employee Support and Counselling Service is also available to provide counselling and advice. Where an employee refuses help or drops out of a treatment programme this will not be automatic grounds for dismissal; however any unacceptable behaviour or level of performance thereafter will be subject to appropriate action.

### **Other Personal Interests**

Employees are also required to declare an interest if it comes to their attention that they have a connection or potential connection with any business or organisation (including voluntary bodies) which deals with the Council.

An employee's life away from work is their personal concern. An employee should not however, subordinate their work to their private interests or put themselves in a

position where their job, or the Council's interests and their own personal interests conflict. This includes behaviour, which because of the nature of employment would undermine the Council's confidence or trust in the employee.

An example of such behaviour relates to Council employees facing criminal charges. The Council requires all employees to notify their Manager/Director without delay of any criminal investigation, charge or caution imposed upon them, with the exception of minor driving offences if their job does not include the use of a car. These rules apply for charges incurred on or off duty. A minor driving offence for these purposes is an offence for which a police officer could issue a fixed penalty notice.

### **Additional Employment**

The Council will not prevent an employee from undertaking additional employment providing it does not conflict with the interests of, or in any way weaken public confidence in the Council and does not in any way affect performance of their duties and responsibilities whilst they are at work, or where their current position could confer advantage to their private interest/personal gain. If there is a conflict the manager can ask for an employee to discontinue with the conflicting private business interests.

Employees have a duty to take reasonable care of their own health and safety. Employees must inform their Manager if they have/take up additional employment, particularly where this means that their total number of hours worked, exceed an average of 48 hours per week, or which could have a detrimental effect on their health and safety (see the Health and Safety Manual - Working Time Regulations).

Employees whose salary is above Pay Grade 8 are specifically required to obtain consent from their Manager if they wish to take up any additional employment.

A related issue concerns payment received by employees for work which arises principally as a result of work-related skills and is carried out for private purposes during working hours (by prior agreement) or using Council information, equipment or facilities.

Examples might be when an employee writes a book using Council-owned information and equipment, or an employee who produces computer software using skills or know-how gained from their employment by the Council which is capable of being marketed outside the Council for profit.

Copyright in such work is covered by the section on copyright above. However, the question also arises of who should retain payments for such work given the use of Council developed skills or time or information, equipment or facilities (i.e. the Council, the employee or a split between the Council and the employee).

Should an instance of this nature arise employees should consult Human Resources/ People Management, who will make a decision regarding the acceptability of the project and, if applicable, how resultant payments will be handled, prior to commencement of any such work.

## **6 REGISTRATION OF INTERESTS, GIFTS AND HOSPITALITY**

### **Registration of Interests**

- a) Employees must register any interest they or their spouse or partner have which may conflict with the Council's interests, by providing written notification to their line manager, using the Officer Interests Registration Form, of any employment by, substantial shareholding in, or membership of any external company or body, including voluntary organisations, which has or may enter into a contractual relationship with the Council or which is involved in campaigning or lobbying in respect of any Council activity. The line manager will then pass that information to the Democratic Services Manager who will enter it in a register of interests held for that purpose.
- b) If an employee lets contracts or are involved in any way in engaging or supervising contractors the employee must make a declaration to their manager immediately if either they or a relative or friend has any personal interest in respect of the contractor or potential contractor. That interest may arise through employment, by a substantial shareholding in or membership of the contracting company or body.
- c) The manager must then take steps to ensure any potential problems arising from the conflict of interests are addressed. This may be by identifying another employee to carry out the tendering process or deal with the contractor or potential contractor, or may involve putting in place any necessary safeguards to protect the Council's position and also to protect the employee's position.
- d) A 'significant interest' in a company is one where an employee, their relatives and members of the same household in total have more than a 20% shareholding in a company. However, it may be that a shareholding below 20% is 'significant' for example, where the individual has veto rights or exercises control/influence over the company in other ways. If in doubt, employees should seek further clarification from their line manager.
- e) A 'Relative' of the employee means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, cousin, or the spouse or partner of any of the preceding persons, and partner means a member of a couple who live together.
- f) A 'friend' can be regarded as someone well known to another and regarded with liking, affection and loyalty by that person. A closer relationship is implied here rather than mere acquaintance.

### **Registration of Gifts and Hospitality**

Employees are expected to refuse personal gifts and hospitality offered to them or members of their family by any person or body that has or seeks dealings of any kind with the Council, subject to the following:

- gifts and hospitality of 'token value' may be acceptable, e.g. a pen, diary or a modest lunch, provided it is not a regular practice, and
- where the acceptance of refreshments or a meal would in any event be appropriate in the conduct of normal business

Particular care should be taken if an employee is purchasing goods or services on behalf of the Council. Where any gift or hospitality is offered, it should be recorded using the Officer Interests Registration Form in the Corporate Register in Democratic Services, whether or not it is to be accepted. Where it is to be accepted, approval should be obtained, preferably in advance, from the employee's manager.

In the case of an employee becoming a beneficiary in a service user's will, employees must refuse to accept the legacy/bequest regardless of its size or value if it is as a consequence of their employment. Employees must also report the legacy/bequest to their manager/executive director. Acceptance of such legacies/bequests will result in disciplinary action.

Acceptance of such legacies/bequests will result in disciplinary action.

Offers from companies of promotional sales should be declined. Employees should bring such matters to the attention of their manager in order that a decision can be made as to whether it is appropriate to inform the Director of Resources, who can write to the company concerned, indicating that improved discounts are the only form of promotion acceptable to the County Council.

It is unacceptable for employees to use their own, relatives or friends personal loyalty cards while making purchases on behalf of the Council or service users.

Any prizes won while on Council business or while using Council funds should be reported immediately to their manager/executive director who will make a decision on the acceptability of such a prize.

Where an external organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender negotiation or voluntarily, the conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

From time to time the Council sponsors or gives grants for sporting and cultural events such as exhibitions, plays or performances, or games. The general rule is that no employee, nor any partner, spouse or relative shall receive any benefit from such sponsorship or grant in a direct way without there being full disclosure to their manager/executive director of any such interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

## **Gifts**

When deciding whether or not to accept an offer of a gift, the context is very important. An offer from a company seeking to do business with the Council made to an employee involved in letting a contract is unlikely ever to be acceptable, regardless of the value of the gift.

By contrast, a small gift given at Christmas by a service user as a gesture of appreciation to an employee will generally be acceptable and could cause offence if returned.

Employees must never accept monetary gifts of any kind, whether in the form of cash, or cheques, vouchers or coupons.



Employees must always record the reason for accepting any gift worth over £25. It may be that the manager agrees the gift is accepted on the basis it is shared by a staff group or, where appropriate, it is used as a raffle prize or for a fund-raising event to benefit service users. A series of gifts which altogether total more than £25 in value should be registered.

## **Hospitality**

Examples of hospitality which can be accepted are:

- refreshments or a meal given during or at the conclusion of business
- invitation to a Society or Institute dinner

Examples of hospitality which are not acceptable

are:

- a holiday or business trip paid for by business contacts
- use of a company flat/hotel suite

Offers of free hotel accommodation/tickets for concerts or sporting events should be treated with extreme caution. These will invariably be valued substantially in excess of £25 and you must record why such hospitality has been accepted. If in doubt, any offer of hospitality should be declined. In addition, any prizes offered at a hospitality event and won by an employee must be entered in the Register as a separate item.

Any breaches of the requirements relating to interests, gifts and hospitality will result in disciplinary action being taken against the employee(s) involved.

If an employee is concerned about a particular gift or offer of hospitality, they should obtain advice on the operation of this guidance from the Democratic Services Manager or People Management Managers.

## **Guidance Notes**

### **Registering/Declaring an Interest**

The principles on which these requirements are based are that employees must ensure their personal interests do not conflict with their public duty or the interests of the Council, and the Council and the public must be able to be confident that decisions of whatever nature are made for good and proper reasons and are not influenced inappropriately by the interests of individual employees, their relatives or friends.

The requirement to enter an interest onto a register relates only to the employee's own interests, or those of their spouse or partner. The requirement to declare an interest during the course of employment is much wider and relates both to the employee's interests and those of their friends or relatives. An employee can only make a declaration of interest they themselves know about, and the requirement does not imply any obligation to make enquiries of an employee's friends and relatives as to the interests they hold.

The same principles apply to work carried out through partnerships, and care is needed to ensure that potential conflicts of interest are identified, declared and addressed appropriately.

If in doubt, employees should register and/or declare an interest. A helpful question to ask is; would a member of the public, knowing the facts; think that an employee's or their relatives' or friends' interests would influence the employee in their decision making?

The obligation to register an interest includes external employment which may conflict with the Council's interests. Whenever an employee is considering taking up employment outside the Council, the employee should always notify their manager as a matter of good practice.

### **Gifts and Hospitality**

Many Council employees have dealings with people outside the Council, particularly members of the public, suppliers, contractors and other private organisations. Employees should treat with extreme caution any offer of a gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing or seeking to do business with the Council, or may be applying to the Council for planning permission or some other kind of decision.

It is essential that employees adhere to the overriding principle that they do not compromise their position as public service workers by accepting gifts/hospitality and allowing themselves to reach the position where they might be, or might be thought by others, to have been influenced in making an important decision as a consequence.

A helpful question to ask is whether a member of the public, knowing the facts, would think that an employee of the Council might be improperly influenced by the gift or hospitality.

It is also important that the Council is seen to conduct its activities with integrity, and does not leave itself or its employees open to allegations of corruption and to bad publicity.

All offers of gifts or hospitality must be recorded, whether or not they are accepted. This ensures that the system is transparent and acts as protection for the employee concerned. However, there is no need to record receipt of promotional material of token value such as desk diaries or pens. Where the reasons for acceptance of a gift or hospitality cannot be expressed in a simple form of words and included in the Register, the reasons should be recorded separately and a cross-reference to the relevant document included in the Register.

## **7 REPORTING PROCEDURES**

**An employee must not treat another employee of the Council less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.**

It is a breach of an employee's terms and conditions of employment if they victimise another employee who has used the Council's reporting procedures to report the misconduct of others.

The Confidential Reporting Code is intended to encourage and enable anybody who works for or on behalf of the Council to raise serious concerns within the Council rather than overlooking a problem, and to make it clear that reporting can happen without fear of reprisal.

Employees are contractually expected to report non-compliance of other employees within the Code. Under the Public Interest Disclosure Act 1998, employees are legislatively protected in the event that they raise any concerns. For further guidance please refer to the Council's Confidential Reporting Code (Whistle Blowing Policy) on George.

Employees will be expected, through agreed procedures and without fear of recrimination, to report any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

### **Anti-Fraud and Anti-Corruption**

The Council is committed to ensuring the maintenance of high standards in every aspect of its activities. As part of this commitment the Council will ensure that opportunities for fraud and corruption are identified and actively managed to reduce possible risks. Where there is a suspicion of fraud or corruption the Council will deal with it in a firm and controlled manner. This has been accepted by the full Council within their Policy.

## **8 OPENNESS**

**An employee must:**

- a) not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so; and**
- b) not prevent another person from gaining access to information to which that person is entitled by law.**

### **Openness and Use of Information**

During the course of employment employees will come across confidential information. All employees must understand and comply with Information Governance requirements. This refers to the correct handling and management of information to comply with relevant legislation, confidentiality and security standards.

With the adoption of Agile Working throughout the Council an employee may be working in areas other than their normal office or in premises shared with staff working in other services provided by the Council. If an employee views, overhears or otherwise comes into contact with such information the privacy and confidentiality of this must be maintained at all times, unless an employee is expressly authorised to divulge it, or is required to do so by law, for example to members, auditors, government departments, service users and the public.

Employees should use their discretion to determine the appropriateness of where they hold conversations of a confidential nature (particularly when using a touchdown point or in a public place, for instance when using a mobile phone). They should ensure that they are aware of the Information Governance guidance document, 'Be Vigilant with Information.'

The duty of confidentiality is imposed on all staff no matter what their function or capacity within the Council. A breach of confidentiality may be considered a disciplinary matter.

Information Governance is the framework of law and best practice that regulates the manner in which information, (including information relating to and identifying individuals) is managed, i.e. obtained, handled, used and disclosed. It is a complex and rapidly developing area and one of the upmost importance since information is central to any organisation and underpins everything we do.

Information concerning an employee's private affairs must not under any circumstances be supplied to any person outside the service of the Council without the consent of the employee, nor to anyone within the Council unless that person has authority or responsibility for such information. Access to personal information is detailed in a separate policy.

Employees must never use their authority or position for personal gain, or to enable colleagues or others to gain personally. Any particular information received by an employee from a councillor which, is personal to the councillor and does not belong to the Council must not be divulged by the employee without prior consent of the councillor, except where disclosure is required or sanctioned by law.

If any employee has any reservations about any request to supply information they should immediately refer the matter to their Manager/Director.

#### **I.D. Cards**

To prevent security breaches the Council has an Identification Card scheme for all employees. Employees should ensure that they have their ID card with them at all times and if challenged by an appropriate person i.e. another county council employee, Councillor, or somebody working for the authority on a long term contract, they are to show the ID card to confirm their identity. The ID cards carry a passport style photograph which will be published on George 'People Finder' or its system replacement.

#### **Media Contacts**

Employees must not make statements to the media, or any other public statement which concerns the business of the Council unless they have been authorised by their Manager/Director to act generally as a spokesperson or have been expressly authorised to act as a spokesperson in relation to a particular situation, or are acting as an authorised Trade Union spokesperson. See the Protocol for Dealing with the Media on Employment Issues in the Employment Manual.

### **9 APPOINTMENT OF STAFF**

- a) **An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.**
- b) **In this paragraph**
  - 1) **"relative" means a spouse, civil partner, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and**

**2) “partner” in sub paragraph (1) above means a member of a couple who live together.**

### **Appointment of Staff and other Employment Matters**

Employees involved in appointments should ensure that those appointments are made only 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 personal relationship with them outside of work.

Similarly, employees should not be involved in decisions relating to discipline, promotion, recruitment or pay and conditions for any other employee who is a relative, partner, etc.

### **10 DUTY OF TRUST**

**An employee must, at all times act in accordance with the trust that the public is entitled to place in them.**

Attention is drawn to Part V of the LCC Constitution, which applies to all employees.

Employees are reasonably expected to be ready and able at the agreed times of working to carry out their job.

Politeness and courtesy should be expressed to the public and to internal and external clients at all times.

Customer care and courtesy must be maintained with appropriate professional boundaries and particular attention should be paid when in contact with vulnerable service user groups.

In carrying out their duties and responsibilities employees' honesty and integrity should be beyond question.

**PROTOCOLS**

**D1 – Protocol on Officer/Member Relationships**

**D2 – Councillor Involvement in Commercial Transactions**

**D3 – Harassment, Intimidation and Unacceptable Behaviour**

**D4 – Planning Development Control Process**

**D5 – Confidential Reporting Code**

**D6 – Petitions Scheme**

**PROTOCOL ON MEMBER/OFFICER RELATIONS****1. GENERAL****1.1 Rationale**

The purpose of this Protocol is to enhance working relationships between Members and Officers of the Council. Whilst the Protocol cannot be comprehensive, it sets out guidance on some of the key issues that arise in those relationships. The Protocol also seeks to reflect both the principles underlying the respective Codes of Conduct for Members and for Officers and the seven General Principles of Conduct in Public Life.

**1.2 Remit**

For the purposes of this Protocol, and unless stated otherwise, the term “Member” includes both elected members (i.e.- councillors) and added members (i.e.- non elected appointed or co-opted, voting or non-voting).

**1.3 Fundamental Principles**

- Members and Officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.
- The role of a Member is defined in Statute. In law all Members are equal and have the responsibilities of trustees.
- The over-riding duty of a Member is to the whole community, with a special duty (if a councillor) to their constituents.
- Officers serve the whole Council and all Councillors.
- Officers advise the Executive, the Council and its Committees and are responsible for ensuring that the decisions of the Council are effectively implemented.
- Officers are required to be politically neutral and, for some employees, this is enforced through the political restrictions imposed by the Local Government and Housing Act 1989.
- The interests of the Council are best served where there is mutual confidence and trust between all Members and Officers.
- Both Members and Officers have responsibility for decision making within the schemes of delegation for both Council and Executive functions as set out in the Council's Constitution
- Members should understand and respect the roles of the Council's main statutory officers (namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer).
- The Chief Executive and Chief Officers (and Senior Officers working to them) should work closely with members of the ruling group to ensure effective policy development and efficient executive decision making
- Officers will provide adequate support to all Members in their local or representational role

#### **1.4 Provision of Advice**

- (a) Members should recognise that Officers have the duty and right to provide appropriate professional advice, and the right to have that advice recorded, so that all Members are fully aware of the implications of their decisions.
- (b) Officers should recognise that it is the right of the Members to take the final decisions in the light of their advice.
- (c) The provision of that advice is the principal means by which Members can gain assurance that their decisions comply with the law and relevant standards or codes of conduct and are in accordance with Council policies and procedures.
- (d) The advice provided by the Officers should be factual, honest, objective and politically neutral and based on professional experience and expertise.
- (e) The advice should be sensitive to the political aspirations and constraints of Members but should not reflect, or be influenced by, those aspirations and constraints.
- (f) The advice given by Officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an Officer's role is Executive, Overview & Scrutiny or Regulatory.
- (g) It is improper for any Member to seek to influence Officer advice and /or recommendations by subjecting any Officer to undue pressure (see Paragraph 1.5 below). Such advice and recommendations must be those of the officer only.

#### **1.5 Respect and Courtesy**

- (a) For the effective conduct of Council business there must be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. It is very important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of Members or Officers.
- (b) If an officer is in breach of this requirement, some form of disciplinary action may result as a consequence of investigation by the Chief Officer.
- (c) If a Member is in breach, then the matter will be discussed, if appropriate, with the Head of Paid Service and/or Monitoring Officer, and will then be dealt with within their political group.

#### **1.6 Undue pressure**

- (a) In their dealings with Chief Officers and, more particularly, other Officers, Members must remain aware at all times that Officers have no discretion to act outside Council policies.
- (b) A Member should not apply undue pressure on an officer either to do anything that they are not empowered to do, or to undertake work outside normal duties, or outside normal hours. A Member should not seek to instruct, or direct the work of,



individual employees, nor create a situation that places, or could place, any Officer in conflict with his or her Line Manager.

- (c) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in that Officer's favour or to his or her advantage, nor raise with a Member personal matters to do with their work. No Officer shall make claims or allegations to a Member about another Member or Officer except for a Chief Officer raising issues through proper channels as set out in the Constitution.

## **1.7 Familiarity**

Close familiarity between Members and Officers must be avoided. It can damage the principle of mutual respect and could lead to passing of confidential information, or information which should not properly be passed between them. Such familiarity could also cause embarrassment to other Members and/or Officers or could give rise to a suspicion or perception of favouritism.

## **2. INFORMATION AND THE POLITICAL PERSPECTIVE**

- 2.1 All information will be open and accessible, subject to legislative requirements on exempt and confidential information and relevant the Data Protection law.
- 2.2 For the proper functioning of the County Council as a whole, Officers will normally be permitted to share information freely between themselves.
- 2.3 Where the information has been supplied/received subject to a request for party political confidentiality, an Officer will be permitted to share that information with other Officers if he/she believes that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. However, the request for party political confidentiality will be confirmed to, and honoured by, any Officers with whom the information is shared.
- 2.4 Appropriate and regular liaison between Members and Officers connected with the Executive and Overview & Scrutiny aspects of the County Council should avoid the relationship between Overview & Scrutiny and the Executive becoming adversarial and polarised. This liaison, combined with the politically balanced nature of Overview & Scrutiny, should reduce the number of occasions on which it is necessary for information to be supplied by Councillors to Officers on a party political confidential basis at the Executive/Overview & Scrutiny levels.
- 2.5 Officers can share with the appropriate Executive Member any factual information supplied to any other Member.
- 2.6 Where information is supplied to Officers on a party political confidential basis, the Officers will respect that confidentiality unless the Officers believe that the proposed course of action appears to be in conflict with the law, or any relevant standards or codes of conduct, or would amount to an abuse of the processes of the County Council.
- 2.7 Where party political confidentiality would be maintained in accordance with the preceding sub-paragraph, the Officers may, nonetheless, seek to persuade the Members requesting the confidentiality to agree to that information being shared

with the other political groups on the grounds that it would assist the more effective functioning of the County Council; however, in the absence of any such agreement to waive the confidentiality, the Officers would continue to respect it.

- 2.8 Where there is a change in Political Administration, the Officers will act in relation to the new Administration and Opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party political confidentiality.

### **3. SUPPORT SERVICES TO MEMBERS**

- 3.1 All Councillors have a right to receive information from the County Council that they need to carry out their role as a County Councillor.

### **4. OFFICERS AND WHOLE COUNCIL**

- 4.1 The Constitution includes provision for a single party Executive, delegation of decisions to individual Executive Members and a clear division between the Executive, Overview & Scrutiny and Regulatory roles of Members.
- 4.2 However, Officers are required at all times to serve the whole Council and will need to exercise judgement in fulfilling this obligation, whilst maintaining the distinction between the Executive, Overview & Scrutiny and Regulatory functions.
- 4.3 Members must recognise this obligation on Officers.

### **5. OFFICERS AND THE EXECUTIVE**

- 5.1 Any decision by an individual Executive Member or a collective decision by the Executive must be supported by written advice from the appropriate Officer.
- 5.2 An Officer's obligation to the whole Council requires that such advice is independent and Executive Members must not seek to suppress or amend any aspect of such professional advice.
- 5.3 Reports to the Executive will normally be produced by Officers but there may be occasions when an Executive Member produces such a report. In either situation, the appropriate Officer shall record his or her professional advice to the Executive and ensure that that advice is considered when a decision is taken.
- 5.4 When Officers have to carry out decisions of an individual Executive Member, Non-Executive members should recognise that these are still legitimate executive decisions of the Council

### **6. THE EXECUTIVE AND OVERVIEW AND SCRUTINY**

- 6.1 Given the nature and purpose of the County Council and the respective roles of Members and Officers, it is accepted that the Officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis to the Executive. For their part, the Executive will continue to respect the political neutrality of the Officers and accept that Officers are obliged to respond positively to any requests from Overview & Scrutiny for appropriate

information and advice relevant to the issue being considered by Overview & Scrutiny.

- 6.2 When an Officer requests it, the Executive will provide an appropriate Lead Member to attend an Overview & Scrutiny meeting to explain an Executive decision and the reasons for it.

## **7. OFFICERS AND INDIVIDUAL MEMBERS**

- 7.1 Any Group Leader, Executive Member, Group Spokesman, Committee Chairman or Chief Whip/Group Whip or their nominated representative may request a private and confidential briefing from a Chief Officer on matters of policy which have already been or may be discussed by the Council or which are within its decision-making or advisory process. Briefings shall remain strictly confidential and are not to be shared with other Members without the express permission of the relevant Member(s).
- 7.2 Except for the confidential policy advice referred to above, where possible information will be shared among political group representatives. In particular, scrutiny is a cross party process involving all political groups represented on the Council. Information supplied to Scrutiny Chairmen will therefore be shared as a matter of course with each of the political groups.
- 7.3 Individual Members may request any Chief Officer (or another senior Officer of the Directorate concerned) to provide them with information. Where the Member has a right to information and can demonstrate his/her duties as a Member, such requests must be reasonable, and must recognise the need for Officers to maintain the distinction between Executive, Overview & Scrutiny and Regulatory processes.
- 7.4 If a Chief Officer considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she shall seek guidance from the Head of Paid Service as to whether the information should be provided.
- 7.5 Confidential information relating, for example, to casework, should not normally be sought by a Member from an Officer. If, in exceptional circumstances, a Member wishes to discuss confidential aspects of an individual case, they should seek advice from the appropriate Chief Officer and follow any relevant guidance.
- 7.6 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided (i.e.- the proper performance of the Member's duties).
- 7.7 There will be quarterly informal meetings of all Group Leaders and the ruling group's Deputy Leaders with the Head of Paid Service. These meetings will be confidential and minuted. Their objective is to help ensure the political management of the Council and build effective relationships.
- 7.8 Any Group Leader can request additional meetings to discuss urgent matters.

## **8. LOCAL MEMBERS**

- 8.1 It is essential for the proper running of the Council that Local Members (i.e. - councillors) should be fully informed about matters on which they may be required to make decisions or which affect their electoral divisions.
- 8.2 It is the duty of each Chief Officer and Executive Member to ensure that all relevant staff are aware of the need to keep Local Members informed and that the timing of such information allows Local Members to contribute to those decisions.
- 8.3 Local Members shall also be kept informed about matters affecting their divisions during the formative stages of policy development and discussion.
- 8.4 Issues may affect a single electoral division but others may have a wider - even sub-regional - impact, in which case numerous Local Members will need to be kept informed.
- 8.5 Local Members have an important role to play in representing the County Council in their constituencies; responding to the concerns of their constituents; in meetings with partners and serving on outside organisations.
- 8.6 Whenever a public meeting is organised by the Council to consider a local issue, all the Local Members representing the electoral division(s) affected should as a matter of course be invited to attend the meeting.
- 8.7 Similarly, whenever the Council undertakes any form of consultative exercise, the Local Member(s) should be notified at the outset of the exercise.

## **9. OFFICERS AND NON-COUNTY COUNCIL ELECTED REPRESENTATIVES**

- 9.1 Officers may be requested to meet with councillors or elected representatives from other Councils or organisations to provide briefings and/or policy advice.
- 9.2 Any Officer requested to attend such a meeting which is not held on a cross political party basis must obtain the prior authorisation of the Head of Paid Service who shall inform all Group Leaders of the arrangements.

## **10. MEDIA RELATIONS**

- 10.1 Advice to the Executive and Executive Members in relation to the media will be provided on a confidential basis if requested.
- 10.2 Executive Members will (through the Communications Team) be able to publicise issues prior to decisions being taken.
- 10.3 Overview & Scrutiny and Regulatory Chairmen shall ensure that all media statements relating to the scrutiny and regulatory functions have the support of the relevant Committee. Any such statements must be consistent with the Council's intent that the scrutiny and regulatory functions shall help to achieve a culture of continuous improvement and good governance throughout the Council.

- 10.4 The Communications Team and other Officers will also assist non-Executive Members (particularly Chairmen and Vice-Chairmen) in their media relations (on a confidential basis if requested).
- 10.5 Any Officer assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Members should not seek assistance from an Officer with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

## **11. REDRESS**

- 11.1 If a Member considers that they have not been treated properly by an Officer, they should first try to resolve the matter through direct discussion with that Officer.
- 11.2 The Member may raise the matter with the officer's Line Manager or Chief Officer if the matter cannot be resolved through such discussion. A Member may raise the issue with the Head of Paid Service if it remains unresolved. Where appropriate, disciplinary action may be taken against an Officer
- 11.3 Similarly, if an Officer feels that they have not been treated properly by a Member and they feel unable to resolve the matter directly with that Member, the Officer should raise the issue with the appropriate Chief Officer. In such circumstances the Chief Officer will take such action as is appropriate, including, if necessary, raising the matter with the relevant Group Leader.
- 11.4 The Chief Officer will inform the Head of Paid Service if the Group Leader becomes involved, and, in other cases, where appropriate.
- 11.5 If any matter covered by 11.3 above involves an actual or potential breach of the Code of Conduct for Members, it should be referred to the Monitoring Officer.

## **12. ARBITRATION**

- 12.1 When necessary or appropriate, the Head of Paid Service will arbitrate on the interpretation of this Protocol.

## **PROTOCOL ON COUNCILLOR INVOLVEMENT IN COMMERCIAL TRANSACTIONS**

### **BACKGROUND**

This protocol is designed to support Councillors in their work within the community which is an invaluable part of explaining the intentions of the Council at a local level and which assists in maintaining the Council's responsiveness to legitimate interest groups.

### **PRINCIPLES**

The protocol is based upon the following principles.-

- Protecting the personal integrity of Councillors and officers.
- Ensuring the financial and probity interests of the Council are protected.
- Ensuring decisions are based on complete and sound information and advice from appropriate professional staff.
- Ensuring decisions are in accordance with the Council's agreed processes and standards.
- Protecting the Council, its Councillors and officers from undue pressure or inappropriate contact from contractors and parties with a commercial interest in a transaction.

### **PROTOCOL**

The Council is engaged at any one time in a large number of commercial transactions, which range from such matters as the procurement of goods, services and works, the purchase or sale of land or the disposal of surplus property to such matters as the provision of advice and/or grant aid to companies.

Councillors frequently have a constructive involvement in such commercial transactions. That involvement is not limited to taking the decision in Council, Committee or Executive as to whether to enter into such contracts and arrangements and in exercising their scrutiny functions to ensure that such arrangements complied with the Council's requirements in terms of propriety and are designed and managed so as to provide the Council with the best possible value for money. Such involvement also extends to their role within the community in making the public aware of the services which the Council can make available, and in effecting introductions between such interested parties and the officers who are responsible for administering and delivering those services.

Because of their very close involvement with the community which the Council serves, Councillors may also become aware of opportunities for the Council to act to benefit that community, opportunities to buy land, or commercial or voluntary organisations who could expand their activities if the Council were able to secure the opportunity for them to extend their premises, or local businesses who provide high quality goods or services of a sort which the Council requires, and who might benefit from an opportunity to compete to supply the Council.

However, such commercial transactions also carry significant responsibilities. These include:

- the obligation to secure the best possible value for money for the Council;
- the legal obligation on the Council to secure “best consideration” on the disposal of its land, unless it obtains the consent of the Secretary of State;
- the Best Value obligations to secure the continuous improvement in all Council services, whether delivered directly or externally procured;
- the need to comply with relevant law;
- the need to ensure that a commercial transaction is drafted and documented in such a manner that it can be enforced, for example if the other party defaults or under-performs, or if the goods supplied or the work carried out subsequently prove to be defective;
- the requirement that the transaction and all matters leading up to the final transaction, should be fully and clearly recorded, so that it can be audited to ensure propriety in the procurement process; and
- compliance with the requirements of the Council’s Local Code of Conduct for Councillors and the national code for officers.

In addition, there is the danger that an individual Councillor or officer will be misrepresented by the advocates or opponents of a particular proposal who may, innocently or otherwise, claim that the Councillor or officer has given incorrect information or advice or misrepresented the proposal, are biased or have shown favouritism.

Failure to comply with these requirements can result in serious penalties for the Council, for individual Councillors involved in the transaction and for officers. Such penalties include:

**For the Council:**

- direct financial loss from entering into contracts which are not good value for money for the Council;
- inability to enforce the contract or to recover damages for breach;
- liability to third parties;
- liabilities where a decision made by or on behalf of the Council is overturned on judicial review because it is held to have been unlawful or unreasonable; and
- the loss of the Council’s reputation as an organisation dedicated to the interests of the community which it serves.

### **For individual Councillors:**

- suspension or disqualification from office for breach of the Council's Code of Conduct;
- personal liability, in the event of a Councillor's negligence or reckless or deliberate misconduct causing loss to the Council; and
- prosecution for Misuse of Public Office. (Note that it is for the recipient of any gift or hospitality from a tenderer or contractor with the Council to prove that it was not an inducement or reward for anything which the recipient has done in their public position).

### **For an officer:**

- disciplinary proceedings by the Council, possibly leading to dismissal;
- personal liability to the Council for any loss caused by their negligence or reckless or deliberate misconduct; and
- prosecution for Misconduct in a Public Office.

## **1. LOBBYING**

It is a natural part of a political process that those who may be affected by a proposed decision of a local authority should seek to influence that decision. In many cases they will approach their local Councillor, as the interface between the Council and the local community, or the Chairman of the relevant Committee, as the person who is seen as being responsible for the processing of the decision, or a relevant officer.

Councillors must be seen to determine matters on their merits. A Councillor or officer who has given a personal commitment to support or oppose a particular proposal will have committed themselves before the full issues have been explored, which exploration occurs from discussion of the officer's report and recommendation in the Council or executive or Committee meeting. Accordingly, when approached by an advocate or opponent of a particular proposal, a Councillor has to decide whether:

- 1.1 They will remain impartial, in which case they must limit themselves to listening politely to the arguments put forward, declining to state a personal position and advising the person making the approach of the proper channel for making such representations. When they attend any Council, Executive, Committee or other meeting at which the proposal is considered, they should report to the meeting that they have received such representations.
- 1.2 They will take sides on the issue by declaring their support or opposition to the proposal. In that case, they are either an advocate or an opponent of the proposal and are no longer impartial. As a result, they should declare an interest and withdraw from any such meeting at which the matter is under consideration. The only exception to this rule is that, where a local Councillor has received and supports strong representations from local residents in his/her ward, it is customary for the Councillor to be allowed to report those representations to the Committee or Panel in declaring an interest at the



commencement of discussion of the matter and immediately before withdrawing from the meeting.

- 1.3 No officer should meet and hear advocates or opponents of a proposal on his/her own, but should wherever possible arrange that another officer is present and make a contemporaneous record of the meeting, which should be kept on the matter file and included as a background document, and should report the meeting to the Council, Executive or Committee or Panel meeting where any matter which is material to the determination of the proposal has arisen.
- 1.4 Where a Councillor is of the opinion that a person or organisation have legitimate representations to make, he/she should advise them that they may make those representations in writing to the relevant officer, and the officer should ensure that any relevant representations which he/she receives are fairly report to the meeting of the Council or Committee or Panel at which the matter is considered.
- 1.5 In some cases, it will be appropriate for the advocate or opponent to have a face-to-face meeting with the Council. Where a Councillor is of the view that such a meeting is appropriate, he/she should request the relevant officer to arrange such a meeting. The officer will consider, in consultation with the relevant Executive Councillor or Committee or Panel Chairman as appropriate, whether such a meeting will be constructive and whether it should be at officer or at Councillor level. Where it is at Councillor level, the officer will ensure that the relevant Councillors are invited to attend by the appropriate Chief Officer. All such meetings will be attended by the officer of the Council who is responsible for the matter, or his/her representative, and the officers attending shall make a contemporaneous note of the course of the meeting and ensure that the fact of the meeting and any material issues which came out of it are reported to the meeting of the Council, Executive or Committee or Panel at which the matter is considered.

## **2. PROFESSIONAL ADVICE AND NEGOTIATIONS**

One area of special sensitivity relates to commercial negotiations, where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation, and where it is accordingly essential to ensure that the end result of the negotiation secures value for money for the Council and does not leave it exposed to excessive liability or risk.

There will be occasions when Councillors can play an invaluable part in such negotiations, not least in expressing to the other party the commitment of the Council to a particular project, or the political constraints within which the transaction occurs. However, given the risks to Councillors from involvement in such negotiations, Councillors should never undertake any commercial negotiation alone directly but limit their role to setting the policy and political framework for approving the final deal.

Council officers will conduct all commercial negotiations and will keep Councillors aware of the progress and implications of their actions. In the

exceptional circumstances that the negotiations may benefit from Councillor involvement it will be in accord with the following protocol:

- (a) The Councillor will discuss the transaction in advance with a Council officer of suitable seniority and agree a strategy to progress the transaction.
- (b) Having agreed the strategy, any discussions with interested parties would be organised by a senior officer and would only take place in the presence of an appropriate senior Council officer.
- (c) Only Council officers will make offers to or indicate acceptance of an offer from interested parties on behalf of the Council.
- (d) A record of the meeting involving Councillors with interested parties would be produced by the Council officer in attendance and kept on file for future reference.

### **3. CONFIDENTIALITY**

Commercial transactions, by their nature, involve the commercial activities of one or more party other than the Council. They will involve the disclosure to the Council of matters of commercial confidentiality, such as the business plans, performance standards or pricing structures of commercial organisations, disclosure of which to a competitor or to the market could be very detrimental. This is all the more so as Best Value encourages the development of Partnership and Open Book transactions. The maintenance of confidentiality is essential both to maintain the integrity of a competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets, and are therefore able to be open with the Council.

## **PROTOCOL ON HARASSMENT, INTIMIDATION AND UNACCEPTABLE BEHAVIOUR**

### **1. INTRODUCTION**

Lincolnshire County Council expects the highest standard of behaviour from its Councillors and officers. It recognizes acceptable behaviour as the norm and any form of inappropriate behaviour, including harassment or intimidation is unacceptable. The County Council views any harassment or other inappropriate behaviour with the utmost seriousness and is committed to taking positive action to eradicate it.

Unacceptable behaviour by officers will be dealt with through the Council's grievance and disciplinary procedures. As Councillors and added members are not employees and therefore not subject to employee disciplinary procedures this protocol will apply where a Councillor or added member or officer feels that they are being treated in an unacceptable way by a Councillor or added member of the Council.

### **2. WHAT IS HARASSMENT AND INTIMIDATION?**

Harassment and intimidation take many forms; therefore it is difficult to give a single definition. It may be directed at an individual or a group, and it may be unintentional. If you feel that you have been treated in a way that is detrimental to your dignity, then you may have been subjected to harassment. Essentially, harassment is unwanted, unreasonable, unwelcome and offensive treatment and includes bullying and threatening behaviour. It includes any treatment which the officer considers to be unreasonable and unwelcome and which causes intimidation or offence.

Councillors and added members are not employees of the County Council and are therefore not part of the usual management arrangements. It is easy for officers to be overawed by Councillors and added members and Councillors and added members need to be aware that they are not in the usual manager/subordinate relationship.

Harassment may show itself in different ways, including the following:

- physical contact, from touching to serious assault;
- bullying, e.g. threatening behaviour, constant unwarranted criticism, belittling or exclusion by colleagues;
- intimidation including threats concerning job security or promotion;
- jokes, offensive language, suggestive remarks or gossip;

- visual display, e.g. pictures or posters which could cause offence;
- discrimination, e.g. on the grounds of race, religion, ethnic origin, disability, gender or sexual orientation, or age coercion;
- indecent, suggestive or over-familiar behaviour or obscene gestures;
- undue pressure to take or make a particular decision;
- misuse of powers in order to intimidate or undermine.

### **3. THE IMPLICATIONS OF HARASSMENT**

There are many consequences for the Council if it accepts or tolerates intimidation, harassment, threatening and bullying and other forms of unacceptable behaviour. For example, it can result in a “blame culture” which hampers flair and innovation. Furthermore, such incidents could result in substantial employment claims against the Council for discrimination, stress or other matters. The Council is also mindful of the comments by the Society of Local Authority Chief Executives that they believe that:

“good local authorities are characterised by two things: clear political leadership and strong management competencies. We believe that these cannot exist in places where a climate of bullying and fear is seen as acceptable. We further believe that such behaviour provides a breeding ground for poor performance and may even contribute to corruption where Officers (and Members) feel unable to challenge decisions of overly powerful Councillors or colleagues.”

### **4. MAKING A COMPLAINT**

Any complaints by an officer about a Councillor or an added member should be referred in the first instance to their Chief Officer or the Head of Paid Service.

Complaints by a Councillor or added member about another Councillor or added member should be referred in the first instance to the Head of Paid Service or Group Leader.

The response to a complaint of harassment will be:

- the complaint will be treated seriously;
- the complaint will be dealt with in a sensitive and confidential way;
- help and support throughout the process of dealing with the issue will be provided;
- anyone subjected to harassment will not suffer or be victimised through making a complaint;
- The County Council will regard any such incidents as serious and they will be fully investigated and acted upon as appropriate.

Initially unacceptable behaviour relating to harassment or intimidation will be approached by mediation, by or within the political group concerned where

appropriate. In the event of no change in conduct or other acceptable outcome then, if appropriate, the matter will be referred for investigation in writing to the County Council's Monitoring Officer.

## **5. ENCOURAGING ACCEPTABLE BEHAVIOUR**

Acceptable behaviour in the workplace is behaviour that demonstrates a commitment to the Value and Standards Statement approved by the County Council in July 2001 which forms part of the Constitution. In support of this all Councillors, added members and officers can:

- afford dignity, trust and respect to everyone and ourselves;
- be aware of the effect of our behaviour on others;
- only make reasonable and manageable demands;
- communicate honestly and openly, clearly stating what we mean and expect of others;
- provide honest feedback based on evidence and be open to constructive criticism;
- start from the assumption that everyone is working to the best of their ability, considering the current stage of personal and professional development.

**PLANNING DEVELOPMENT CONTROL PROCESS****1. INTRODUCTION**

1.1 Planning is not an exact science. It relies on informed judgement within a firm policy context. It is highly contentious because its decisions affect daily lives and private interests. The openness of the planning system invites participation. Planning decisions must be open, unbiased and transparent. These principles underpin good decision making, the planning system, the Local Government Act 2000 and the Human Rights Act 1998.

1.2 The planning system controls development in the public interest. The Council's role is to make the best decision (even if that takes a little time) taking into account the effect of the development on the environment and on the interests of the wider community. This, like many other decisions of the County Council involves balancing many, often conflicting, interests. Planning decisions must therefore be taken and be seen to be taken:

- openly;
- impartially;
- taking all relevant matters into account;
- ignoring any irrelevant matters;
- for justifiable and clearly stated reasons.

There must be no grounds for suggesting that a decision has been biased. Bias does not mean Councillors or Officers have been swayed by relevant factors. It means that an ordinary Member of the Public, with full knowledge of the facts, would reasonably conclude that Councillors or officers might have been swayed by irrelevant considerations, personal factors, or the manner in which the application had been dealt with.

1.3 Examples of circumstances in which a decision would be likely to be biased are:

- any voting member of the Committee has declared openly their position before the Committee meeting;
- either the applicant or supporters of the application or objectors have been given different levels of access to state their case to the Committee;
- the information provided to individual Committee members is not consistent;
- a member of the Committee has not declared a prejudicial interest;
- the Committee has not been made aware of all material considerations;
- the Committee or members of the Committee have not acted in the public interest;

- decisions, with respect to both conditions and reasons for refusal, are not supported by clear understandable reasons.

That is not an exhaustive list but illustrates the range of factors which can be seen as demonstrating bias.

- 1.4 A decision can be challenged for bias through a judicial review. The court could invalidate the decision, advising the Council to reconsider the matter properly. The costs of those affected in going through this process would fall on the Council. The Council may also be liable for the costs caused by delaying the decision. Delay may also severely affect the Council's own future plans.
- 1.5 Applicants for planning consent may appeal against a refusal or the content of conditions attached to an approval through planning appeal procedures. Similarly, appeals can also be lodged against enforcement action. The Council will incur its own costs of this process, and if it has acted unreasonably, may also have to pay the applicant's costs.
- 1.6 Bias could lead to a complaint to the Local Government Ombudsman, who might recommend payment of compensation; this would be recorded on the Council's Key Performance Indicators.
- 1.7 Bias caused by a breach of the Lincolnshire Code of Conduct could be dealt with under the agreed local arrangements for dealing with Standards complaints.
- 1.8 Dealing with such matters including appeals, Ombudsman's complaints and judicial reviews, is time consuming and costly. If challenges are upheld then the credibility of the County Council suffers.
- 1.9 The County Council has a code of conduct which deals with the issues that affect all Council business. Given the complexities, responsibilities and pressures of the planning system, it is sensible to have a code of practice, amplifying the code of conduct for dealing with planning issues. This code of practice is based on a national code, prepared by the Local Government Association and published as "Probity in Planning". It should protect Officers and Councillors from false allegations, and give the public confidence in the planning decisions of the Council.

## **2. THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 2.1 Councillors and officers have different but complementary roles, both of which serve the public. Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. Officers advise Councillors and the Council, and carry out the Council's work. They are employed by the Council, not by individual Councillors and instructions to officers come from the legally established decision taking mechanisms of the Council. Unless given clear delegations to act on behalf of the Council, Officers can only advise.

- 2.2 Both Councillors and Officers are guided by codes of conduct. The local Code of Conduct provides standards and guidance for Councillors. Employees are to be the subject of a statutory Employee's Code of Conduct. In addition, Chartered Town Planners are guided by the Royal Town Planning Institutes' Code of Professional Conduct.

### **3. GENERAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS**

#### **3.1 Councillors:-**

##### **Code of Practice**

- In making planning decisions, Councillors must make decisions on the basis of the wider public interest of Lincolnshire as a whole as expressed in planning policy and must be seen to do so;
- Councillors should not try to persuade officers to alter their professional advice or put pressure on officers for a particular recommendation;
- Councillors must not put pressure on other Councillors for a particular recommendation; and
- Councillors should receive training on how to approach planning matters: initial training when first serving on the Planning and Regulation Committee and regular updates to keep abreast of any changes which take place in legislation or procedures.

#### **3.2 Planning Officers shall:-**

- always act impartially, providing independent professional advice to the best of their skill and understanding;
- act with competence, honesty and integrity;
- advise and act in accordance with approved policies;
- observe the Officer's Code of Conduct (when adopted); and
- observe the Code of Professional Conduct of the Royal Town Planning Institute.



## **4. HOSPITALITY**

### **4.1**

#### **Code of Practice**

- In making planning decisions, Councillors should refuse any gift and be extremely cautious about accepting hospitality. If the receipt of hospitality is unavoidable from persons with an interest in a planning proposal, it must be ensured it is of a minimum level.

## **5. DECLARATION OF INTERESTS**

### **5.1**

#### **Lincolnshire County Council's Code of Conduct**

Members must in all matters consider whether they have an interest, under the Council's code of conduct which they should register and declare.

## **6. LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and important part of the political process. However, such lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of Councillors concerned being called into question.

#### **Code of Practice**

- Councillors on the Planning and Regulation Committee should restrict their advice to lobbyists to procedural matters and advise objectors and supporters of any proposal, to write to the relevant officer so they can be included in the officer's report;
- Councillors on the Planning and Regulation Committee must not openly declare which way they intend to vote in advance of the formal consideration of an application. If they have openly declared their position they shall properly declare their position at Committee and not vote on the application concerned;
- A decision on a planning application must not be taken before the Planning and Regulation Committee meeting, when all available information and views have been considered. Any group meeting before a committee meeting, must not be used to decide how Councillors should vote; and
- Councillors on the Committee must avoid organising support for an opposition to a planning application, and avoid lobbying other Councillors (except when they are addressing the Committee).

## **Code of Practice**

- Executive Councillors must not participate as members of the Planning and Regulation Committee in deciding applications by Executive or fellow Executive Members on behalf of the Council;
- Local Divisional Councillors who are not on the Committee are allowed to speak. Only members of the Committee shall be able to vote.

6.2 Opinions, which are relevant to the determination, made by the applicant, agent, objector, to any member must be made known to the relevant planning officer, in order that they can be included in the officer's report to committee and therefore properly considered.

## **7. PRE-APPLICATION DISCUSSIONS**

- 7.1 Discussions between potential applicants and the council, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged by central government. However, it can be easy for such discussions to become, or be seen to become, part of a lobbying process. Pre-application discussions should, therefore, take place within clear guidelines. The guidelines are:
- 7.2 At the outset, it will be made clear that the discussions will not bind the Council to making any particular decision.
- 7.3 Advice given will be consistent with the development plan, government guidance and material considerations.
- 7.4 Officers involved in the discussions shall make it clear whether or not they are the decision-maker or advising officer to the committee concerned.
- 7.5 Written notes will be taken of all meetings and potentially contentious telephone conversations with applicants.
- 7.6 Care must be taken to ensure that advice is not biased (nor seen to be).
- 7.7 Members of the Planning and Regulation Committee should preserve their impartiality as decision takers and avoid pre-application or post-application discussions with developers or other interested parties regarding development proposals.
- 7.8 Where a particular planning application gives rise to widespread concern, the Chairman of the Planning and Regulation Committee in consultation with the Executive Director for Environment and Economy may arrange a public meeting to which the applicants will be invited to outline their proposals and the objectors express their concerns. All members of the Committee together with Local Councillor(s) will be invited to attend. Relevant officers will attend and detailed notes taken of the meeting. The Chairman will make it clear to

the meeting that members are in attendance to obtain information not to discuss the proposal.

## **8. OFFICER REPORTS TO COMMITTEE**

8.1 Officers will provide clear unbiased professional advice. Reports will:

- set out the relevant development plan policies, site and relevant planning history, material considerations and the substance of objections and the views of people and organisations which have been consulted. Written representations are open to inspection by Councillors and the public;
- contain a technical appraisal of the relevant provisions of the development plan and other material considerations in relation to the application;
- advise on any relevant issues relating to Human Rights legislation;
- contain recommendations; and
- may be supplemented by oral updates in special circumstances which will be minuted.

## **9. PUBLIC SPEAKING AT COMMITTEE**

9.1 Applicants, agents and persons wishing to express a view about a planning application that is being reported to the Planning and Regulation Committee will have a right to speak at the Committee subject to the following rules. Details of the scheme will be included in the acknowledgement letter to agents/applicants and the notification letter/site notices to neighbours. Details will also be available on the Council's website and from Council offices:

- a) Anyone wishing to speak must register in writing (including e-mail or fax) with the planning officer at least 2 working days before the meeting.
- b) A list of persons wishing to speak arranged in order of the agenda will be produced for the Chairman and members of the Committee.
- c) Any person who has not given notice will only be allowed to speak at the discretion of the Chairman.
- d) The Committee may hear speakers either only for the applicant or only for objectors provided all parties have been given the opportunity to speak and one party chooses not to exercise his/her right.
- e) The number of speakers will be restricted to a maximum of 1 in favour of an application and 1 opposing an application chosen by order of notification of a wish to speak. In addition to local Councillors who have a right to speak on a matter affecting their division and adjoining

divisions, up to 2 other Councillors who are not members of the Committee may also address the Committee upon each application.

- f) Speakers will be limited to 3 minutes each in respect of each application.
- g) Members of the Committee may ask questions of speakers. Such questions will be put through the Chairman.

## **10. TAKING A DECISION AT COMMITTEE**

- 10.1 Planning decisions must be taken in accordance with the adopted development plan, unless material considerations indicate otherwise. Reason must be given for all planning decisions.
- 10.2 If the Committee makes a decision contrary to the officer's recommendation (whether approval or refusal), the Committee must give the reasons for that decision and a detailed minute must be made and a copy placed on the application file. The reasons must be clear and convincing. If necessary, the Committee should pass a resolution that it is minded to take this course of action and request a further report on appropriate conditions or reasons.
- 10.3 If the committee wishes to add or amend conditions, officers shall draft the condition for approval by the Committee at its next meeting or by the Executive Director for Environment and Economy in consultation with the Chairman of the committee.
- 10.4 Every meeting of the Committee will be attended by a senior legal officer to ensure that procedures are properly followed.
- 10.5 If the Committee makes a decision contrary to an officer recommendation and there is an appeal against the decision, those Councillors who made the decision may be required to be available as a witness at any subsequent Planning Inquiry or Hearing.
- 10.6 Where Members of the Committee wish to raise a substantive issue, or require additional information, they should give at least one clear working day's notice to the Head of Planning to enable a considered response to be given at the meeting. Longer notice is desirable, to allow a supplementary note to be circulated at least two days prior to the meeting and for that note to be a public record of the response.

## **11. COMMITTEE SITE VISITS**

- 11.1 Site visits can give rise to accusations of unfairness by the Committee unless a clear protocol is agreed and followed.
- 11.2 A site visit should be made if:
  - the expected benefit to the Committee of understanding the site, its surroundings and the issues relating to the application is substantial;

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- a formal committee report on the application has been presented;
  - further supporting plans or photographs could not satisfactorily enable members of the Committee to visualise the impact of the proposal.
- 11.3 Members of the Committee shall not go unaccompanied onto land about which an application has been made, as this exposes them to accusations of bias by objectors.
- 11.4 The reasons for a site visit shall be minuted.
- 11.5 Site visits must include officer assistance. In exceptional circumstances, representatives from statutory bodies may be invited to attend where they can provide detailed technical advice, for example, on highway sight lines.
- 11.6 Site visits shall be carried out under the guidelines used by the Planning Inspectorate, namely the site visit is to view the site and salient features. Neither the applicant nor objectors should be allowed to accompany the Members of the Committee on the site visit, except for safety reasons. The owner or applicant will, however, not be allowed to participate in any discussion which should, in any case be limited to purely factual information.
- 11.7 The officer present will set out the main issues relating to the application and point out the salient features and points on the site and in the immediate area.
- 11.8 No formal decisions of the Council will be made on site and where a site visit is held only those members of the Committee who have attended the site visit will be entitled to participate in the decision relating to that application.

## **12. REVIEW OF DECISIONS**

- 12.1 In order to review the quality of decisions a random selection of sites will be reviewed each year by the Head of Planning and an external 'critical friend'. Members of the Committee will be taken to visit these sites.
- 12.2 An annual report will be produced on which permissions have been implemented and the quality of the development that has been carried out.

## **13. COMPLAINTS AND RECORD KEEPING**

- 13.1 The Council has a robust system for dealing with complaints. The public will be made aware of the complaints system through the corporate complaint system. The Local Planning Charter sets out the system for investigating alleged breaches of planning control with respect to planning enforcement matters. The planning enforcement system will ensure:
- complaints are acknowledged within 3 clear working days;
  - complaints are initially investigated within 5 clear working days;
  - complaints are replied to within 15 clear working days.

- 13.2 The performance of the Council's development control function is monitored on a quarterly basis.

#### **14. PLANNING OBLIGATIONS**

- 14.1 Officers will negotiate with developers with regard to Legal Agreements.
- 14.2 Reports to the Planning and Regulation Committee may include Heads of Terms of Agreements.
- 14.3 Copies of any concluded Legal Agreements (Planning Obligations and Agreements under the Highways Acts) will be available for public inspection and placed on the statutory register.
- 14.4 Copies of Agreements will be forwarded to the relevant district and parish councils with the decision notice for the application.

#### **15. REVIEW OF THE CODE OF CONDUCT**

- 15.1 The operation of this Code of Conduct shall be reviewed annually by the Audit Committee.

**LINCOLNSHIRE COUNTY COUNCIL**  
**CONFIDENTIAL REPORTING CODE****INTRODUCTION**

People who work for or on behalf of the Council are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council is committed to the highest possible standards of conduct, openness, honesty and accountability. In line with that commitment, the Council will encourage those people with serious concerns about any aspect of the Council's work to come forward and voice those concerns. In return the Council will provide a structure which is safe and acceptable, recognising that certain cases will have to proceed on a confidential basis.

This Confidential Reporting Code has been agreed to maintain and improve standards across the Council as a corporate organisation through the modernising agenda for Local Government. It is an overarching document for other procedures on complaints, grievances and standards across the Council.

This policy document is intended to encourage and enable anyone who works for or on behalf of the Council to raise serious concerns within the Council rather than overlooking a problem and to make it clear that reporting will happen without fear of reprisal.

This Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example care homes. It has been discussed with the relevant trade unions and has their support.

The Council will require any existing or potential partner, contractor or supplier, either to have in place a confidential reporting code analogous to the Council's own code, or to be prepared to adopt the Council's own code as a pre-requisite for eligibility for working with or on behalf of the Council. The Council will determine the appropriateness of any analogous code.

## AIMS AND SCOPE OF THIS CODE

This Code aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise concerns and receive feedback on any action taken;
- allow you to take the matter further if you are dissatisfied with the Council's response; and
- reassure you that the Council will seek to protect you from reprisals, or victimisation for raising concerns in good faith.

Examples of issues which might be raised, would include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriage of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- possible fraud or corruption;
- sexual or physical abuse of clients;
- unethical conduct.

Or it may be something that:

- makes you feel uncomfortable in terms of known standards;
- is against the Council's Standing Orders or policies;
- is unlawful;
- amounts to improper conduct.

The Code will come into immediate effect regardless of the date when any reported incident occurred.

## SAFEGUARDS

### Harassment or victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you if you raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy or contract procedures that may already affect you.



## **Employee support and counselling**

The Council has trained counsellors who can offer discreet, confidential, and non-judgmental support and counselling to any employee. Contact details are widely publicised.

## **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At an appropriate time however you may need to come forward as a witness and this will be fully discussed with you.

## **Anonymous allegations**

This Code encourages you to put your name to your allegation, as concerns expressed anonymously can be less powerful. However, the absence of a name will not prevent an investigation taking place into the concern. The level of the investigation will be dependent on the seriousness of the issue raised, but it may be hindered if it is difficult to follow up the allegation or obtain more details.

## **Untrue allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations or are motivated by personal gain, disciplinary action may be taken against you.

## **HOW TO RAISE A CONCERN**

As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the nature, seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that senior management is involved, you should approach the Head of Paid Service, the relevant Executive Director or the Monitoring Officer, or where there is a belief that resources have been misused contact the Assistant Director Finance and Resources.

Concerns are better raised in writing. You are invited to set out the background and history of the concern giving names, dates and places where possible, and the reason why you are particularly concerned about the situation.

If you do not feel able to put your concern in writing, or wish to talk to someone, there is a freephone number, which you can call. This is a dedicated line for reporting confidential concerns.

The earlier you express the concern, the easier it is to take action.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

You may invite your trade union to raise a matter on your behalf.

## **HOW THE COUNCIL WILL RESPOND**

The action taken by the Council will depend on the nature of the concern. The matters raised may be:

- investigated internally by management or Audit & Financial Control or through the investigation process;
- referred to the Police;
- referred to the external auditor;
- the subject of an independent inquiry;
- determined by the Monitoring Officer in consultation with the Leader of the Council or an elected representative;
- dealt with under the relevant Council protocol.

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific procedures (for example child protection or discrimination issues), will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation.

Within ten clear working days of a concern being received, the Council will contact you, ideally in writing:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made and
- telling you whether further investigations will take place, and, if not, why not;
- giving you details of support mechanisms.

The amount of contact between the managers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

When any meeting is arranged, you have the right, if you so wish, to be accompanied by a union representative or a friend who is not involved in the area of work to which the concern relates.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigations and be advised of further channels if you are not satisfied with the outcome.

Where a case is investigated the detailed course of action will be determined by the Head of Paid Service, Assistant Director Finance and Resources, Executive Director of Finance and Public Protection, or Monitoring Officer as appropriate in line with the steps set out above. They will decide whether to publish any details of the concern and any action plan. If details are published they will discuss this with you and seek to address any concerns you have about anonymity.

## **THE RESPONSIBLE OFFICER**

The Monitoring Officer has overall responsibility for the maintenance and review of this policy. The Assistant Director Finance and Resources, Executive Director of Finance and Public Protection will be advised of all notifications under the Code and will keep a record of concerns raised, action taken (i.e. nature of onward referral) and outcomes (in a form which does not endanger your confidentiality).

**PETITIONS SCHEME****PETITIONS AT LINCOLNSHIRE COUNTY COUNCIL**

Lincolnshire County Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in Lincolnshire can organise or sign a petition which will be dealt with in accordance with this scheme. All petitions to Lincolnshire County Council are taken seriously, and will receive an appropriate response.

This Petition Scheme sets out how petitions should be presented to the Council and how the Council will deal with them.

**OTHER WAYS TO MAKE YOUR VIEWS KNOWN**

Before considering whether or not to raise a petition to the Council, the petition organiser should consider whether a petition is the best form of engagement with the Council on a particular issue.

There are a number of other ways to resolve an issue or to make your views known including:

- Contacting your Local County Councillor who may be able to help with the issue or explain how to make representations on a particular subject to the right person at the County Council (more details can be found on the website <http://lincolnshire.moderngov.co.uk/mgMemberIndex.aspx?bcr=1>)
- Contacting the Customer Service Centre who may be able to offer advice on resolving the issue (Customer Service Centre can be contacted via:
  - Telephone: 01522 552222;
  - Email: [customer\\_services@lincolnshire.gov.uk](mailto:customer_services@lincolnshire.gov.uk);
  - Post: County Offices, Newland, Lincoln, LN1 1YL).
- Logging the issue through the website (<https://www.lincolnshire.gov.uk/>)

If you wish to make a complaint or tell us what you think about a Council service, then you should instead use the Compliments, Comments and Complaints process by completing the online feedback form at [www.lincolnshire.gov.uk/feedbackform](http://www.lincolnshire.gov.uk/feedbackform) or by contacting our Customer Service Centre.

## HOW TO SUBMIT A PETITION

Petitions can be submitted in the following ways:

- On paper via post to:

**The Head of Paid Service  
Lincolnshire County Council  
County Offices  
Newland  
Lincoln  
LN1 1YL**

Or in person to: County Offices, Newland, Lincoln.

- Electronically through the council's ePetitions Portal at:  
<http://lincolnshire.moderngov.co.uk/mgepetitionlistdisplay.aspx>

Or by e-mail to: [DemocraticServices@lincolnshire.gov.uk](mailto:DemocraticServices@lincolnshire.gov.uk). Petitions submitted by email must be scanned in full as an exact replica of the original copy and will be treated as a paper copy.

## GUIDELINES FOR SUBMITTING A PETITION

For the purposes of this scheme, petitions are formal requests that:

- Ask the Council to either do something, or stop doing something;
- Relate to matters over which the Council has control or which it is able to influence;
- Are signed by at least 2 people who live, work or study in Lincolnshire;
- Are submitted either as a paper copy or via the Council's e-petition facility.

Petitions submitted to the County Council must include:

- A clear and concise statement covering the subject of the petition;
- A statement of what action the petitioners wish the County Council to take, which must be set out in full on each sheet where signatures are asked for;
- The name, address and signature of any person supporting the petition (signatures which do not include the name and address of the signatory will be deemed not valid);
- The contact details, including an address and/or e-mail address for the petition organiser.

Petitioners are encouraged to use the Lincolnshire County Council petition template form which is available on the website (<https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/petitions/> website currently in development) or by contacting the Democratic Services Team on 01522 552107.

## EXCEPTIONS TO THE PETITIONS SCHEME

The following will not be accepted as petitions within the scope of the scheme:

- Submissions which are considered to be vexatious, abusive or otherwise inappropriate;
- Submissions in response to a public consultation being run by the council (such petitions will be acknowledged as part of that process and will be considered along with other consultation responses);
- Submissions relating to matters which would usually be dealt with through the corporate complaints system;
- Submissions that are the same as, or very similar to, a petition considered by the County Council within the last 6 months;
- Issues raised by staff related to employer/employee matters;
- Petitions relating to matters being handled through external agencies such as the Ombudsman or referring to a matter that is subject of legal proceedings;
- Petitions that are handled through alternative means or where other procedures apply, such as those referring to:
  - planning or licensing application;
  - parking policies;
  - a decision for which there is an existing right of appeal, such as Council tax banding and non-domestic rates;
  - statutory petitions (for example requesting a referendum on having an elected mayor).

Further information on these procedures and how you can express your views is available by contacting Democratic Services on 01522 552107.

## PAPER AND ONLINE PETITIONS

Paper petitions should be submitted as a final and complete document (once a petition has been submitted no further signatures can be added).

Petitioners are encouraged to use the Lincolnshire County Council petition template form which is available on the website or by contacting the Democratic Services team on 01522 552107.

The Council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, full postal address and email address. The petition organiser will need to decide how long the petition will be open for signatures. The standard timeframe for a petition to run is 6 months but this can either be reduced or extended to a maximum of 12 months.

It may take up to 5 working days before the petition is published online as the Council has to check that the content of your petition is suitable before it is made available for signature. If we feel we cannot publish the petition for some reason, we will contact the petition organiser within this time to explain the reasons why. The petition organiser will then have 10 working days in which to change and resubmit their petition. Otherwise a summary of the petition and the reasons why it was not accepted will be published on the website.

When an e-petition has closed for signature it will be determined what the most appropriate way for it to be dealt with is and the petition organiser will be notified of this decision within 10 working days.

It is possible for an online petition and paper petition to be run at the same time to enable them to be considered together. The petition organiser must send the paper petition to the Council at the same time as the closing date of the online petition so all signatures can be counted together. Please advise the Democratic Services Team if you are intending to run a paper petition and e-petition concurrently so appropriate provision can be made.

Electronic petitions created via alternative systems (e.g. change.org) will be accepted subject to the petition satisfying the validation criteria and being presented to us in an appropriate format.

Online petition systems outside of the Council's own ePetition system do not automatically notify us when a petition has been submitted and therefore the Council will treat these in the same way as paper petitions. In these cases, the petition organiser will need to print a copy of the petition statement and the corresponding signatures (including full name, address details) and submit these to us either via post, in person or via e-mail. Hyperlinks will not be accepted.

## **HOW WILL THE COUNCIL RESPOND TO PETITIONS?**

The Council will determine the validity of each petition and decide the most appropriate way for a petition to be dealt with in discussion with the petitioner.

When responding to a petition the Council will give consideration to the issue highlighted in a petition and the level of support. The Council's response will ultimately be guided by what is most appropriate for the issue.

Generally petitions will be dealt with in one of the following ways:

- Referred directly to an appropriate service area and the relevant Executive Councillor for a response;
- Referred to the most relevant Scrutiny Committee;
- Referred to a meeting of the County Council.

Each petition will be assessed on its own merits, but as a general principal, a petition relating to an issue which affects one electoral division will be sent directly to the relevant service area and Executive Councillor. If the petition relates to an issue affecting two or more electoral divisions it may be referred to the relevant scrutiny

committee. In some circumstances, if the petition relates to a countywide issue and has sufficient support it may be referred to a meeting of the County Council.

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know how the Council plan to deal with the petition and when they can expect to be contacted again.

If the Council can do what the petition asks for, the acknowledgement may confirm that the action requested has been taken and the petition will be closed.

Where a petition is about something over which the Council has no direct control (for example the local railway, hospital or something which is the responsibility of the district council) consideration will be given to what is the best method for responding to it. This may consist of simply forwarding the petition to the most appropriate body. The petition organiser will be notified of the action which has been taken.

In the period immediately before an election or referendum the Council will need to deal with petitions differently, the reasons for this will be explained to the petition organiser along with the revised timescales which will apply.

Petitions will be presented at relevant meetings in the order they were received.

#### **PETITIONS REFERRED TO A SERVICE AREA AND EXECUTIVE COUNCILLOR**

Where a petition is referred to the relevant service area and Executive Councillor for a response, the service area in consultation with the Executive Councillor will decide how best to respond to the issues raised. The petition organiser will receive a response within 15 working days.

#### **PETITIONS REFERRED TO A MEETING OF THE COUNTY COUNCIL**

When a petition is referred to a meeting of the County Council it will be referred to the next meeting of the County Council (where that meeting is more than 10 working days from the date that the petition is received).

Council meetings take place approximately four times a year and the dates can be obtained by contacting the Democratic Services Team or by visiting the Council's website.

The petition organiser, or their spokesperson, will have a maximum of 5 minutes to speak to the meeting on the subject of the petition. The relevant Executive Councillor will then be allowed a maximum of 5 minutes to respond to the petition.

Following the meeting a petition organiser will receive a written confirmation of any further action within 15 working days.

#### **PETITIONS REFERRED TO A SCRUTINY COMMITTEE**

If a petition is to be considered by a Scrutiny Committee it will be referred to the next meeting of the most relevant Scrutiny Committee (where that meeting is more than 10 working days from the date the petition is received), depending on what the subject matter of the petition is. Alternatively, if the matter of the petition is already on the work programme of a Scrutiny Committee, the petition organiser will be invited to



the meeting to submit representations about their petition under the agenda item it relates to.

The petition organiser, or their spokesperson, will have a maximum of 5 minutes to speak to the meeting on the subject of the petition. The relevant Executive Councillor or senior officer will then be able to respond to the petition. The petition will then be debated by the Scrutiny Committee. At the end of the debate, the Scrutiny Committee will decide how best to respond to the petition. Any deviation from this process will be at the discretion of the Chairman of the Scrutiny Committee.

The petition organiser will be informed of the date of the meeting at which the petition will be considered. If the petition organiser is unable to attend and cannot nominate a spokesperson, the petition may still be considered in their absence. Any deferrals would be at the discretion of the Chairman of the Scrutiny Committee.

Following the meeting a petition organiser will receive a written confirmation of any further action within 15 working days.

A maximum of 2 petitions can be submitted to any one Scrutiny Committee at one time.

## **MULTIPLE AND REPEAT PETITIONS**

Where multiple petitions on the same issue or substantially similar issues are received the Council may deal with them differently. If the Council chooses to refer the petition to a scrutiny committee for consideration, only one petitioner will be invited to speak (ordinarily it is the petitioner from the first petition to be received, however, petitioners are permitted to choose which of them will address the committee and to confer on the content of the speech prior to the start of the meeting if they so choose). The response given by the Council to any additional petitions may be the same as given to the first.

Petitions will not normally be considered within 6 months of another petition on the same matter. Petitions which are the same or substantially the same as petitions which have been closed in the previous 6 months will be dealt with having regard to the outcome of the earlier petition. This may result in the Council deciding to not take any action on the later petition. It will be for the Council to determine whether a petition is the same or substantially the same as an earlier petition.

## **PETITION REVIEWS**

If the petition organiser feels unhappy with the way their petition was handled he/she can request that the Council review the steps taken in response to the petition. The petition organiser should contact Democratic Services and provide an explanation of the reasons why the way the petition has been dealt with is not considered to be adequate. The Council will consider the request and respond accordingly within 10 working days.

## CONTACT US

For more information and advice or to discuss a potential petition, please contact Democratic Services:

Telephone: 01522 552107

Email: [democraticservices@lincolnshire.gov.uk](mailto:democraticservices@lincolnshire.gov.uk)

Post: Democratic Services  
Lincolnshire County Council  
Newland  
Lincoln  
LN1 1YL

Further information, including templates and guidance documents are available at (<https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/petitions/> website currently in development).

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## **Part 6**

# **MEMBERS' ALLOWANCES SCHEME**

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*approved version 22.02.19*



## **Members' Allowances and Travel and Subsistence Scheme**

### **General**

This Members' Allowance Scheme for Lincolnshire County Council has been prepared in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 ('the 2003 Regulations') and other appropriate legislation. In particular, the Scheme takes account of recommendations of an Independent Remuneration Panel reporting to Council in February 2019.

This Scheme is effective from 1 April 2019. It is applicable to all elected Members of the County Council. Specific provisions relating to co-opted members are also included.

Within the scheme:

- 'year' refers to the financial year ending on the 31 March and
- 'day' and 'daily' refers to a 24 hour period beginning at 3am
- 'approved duties' are those defined in Schedule 2

An Elected Member who is a member of two separate authorities may not receive an allowance from each authority in respect of the same duties or for the same purpose.

Administrative guidelines relating to Members allowances, travel and subsistence will be published separately.

Members should initially seek advice from the Head of Democratic Services if necessary. In all cases of interpreting this Scheme, the decision of the Monitoring Officer shall be final.

### **Record of allowances**

The 2003 Regulations require the County Council to maintain records of payments made under this scheme specifying the name of the recipient of the payment, the amount and the nature of each payment. The records must be available for inspection at any reasonable time by members of the public.

The 2003 Regulations also require annual publication of the total paid to each recipient for each of the types of allowance and expenses in this scheme. Lincolnshire County Council publishes these on our website.

Government transparency legislation may require additional information regarding Members' allowances to be published.

### **Allowances for Elected Members**

There is no power to pay an attendance allowance to Members.

There are three types of Elected Members allowance in this Scheme:

*Basic Allowance* payable to all Elected Members – see Schedule 1 for values.

*Special Responsibility Allowance* payable in addition to those Elected Members who hold the posts shown in Schedule 1 to the values shown in that Schedule. In the event of one Member holding more than one Special Responsibility post, only one Special Responsibility Allowance, whichever is the greater, will be paid.

*Childcare and Dependants' Carers' Allowance* payable in addition to reimburse Elected Members for the cost of caring for their children or dependent relatives whilst undertaking approved duties. The maximum rate payable is set out in Schedule 1.

### **Claims and payments**

Basic and Special Responsibility Allowances will normally be paid monthly into Members' bank accounts. Such allowances are paid in respect of each year or part year. For example, in the event of a Member giving up a Special Responsibility Allowance mid-year the part-year allowances are paid on a pro-rata daily basis for the period of a year to which they apply.

Claims for travel and subsistence expenses and for Childcare and Dependant's Carer's Allowance should be supported by receipts and made in accordance with any guidance issued by the County Council. Claims must normally be made within two months of the duty for which the claim is made.

### **Renouncing allowances**

A Member may elect to forego any or all of their entitlement to any allowance under this Scheme. Election must be made by written notice to the Head of Democratic Services and will continue until amended by a further notice.

### **Travel and Subsistence Expenses**

Travel expenses incurred whilst on approved duties as defined in Schedule 2 will be paid in accordance with rates set out in Schedule 3.

Subsistence expenses incurred whilst on approved duties as defined in Schedule 2 will be paid in accordance with rates set out in Schedule 3 except that subsistence expenses will not be paid for '*County Councillors' activities within their Division including surgeries, formal meetings of any relevant Parish Council, Residents Association or similar organisation.*'

All reasonable steps should be taken to minimise the need to travel by using telephone or video conferencing, telephone or e-mail or by combining meetings at the same location.

### **Suspension of Payments to Members**

The County Council has resolved to exercise the power available to it under the 2003 Regulations to withdraw all allowances (including travel & subsistence) from any Member of the Council who has been or is in custody pursuant to a custodial sentence.

In the event that any Member is in custody pursuant to a custodial sentence, their entitlement to allowances will cease from the point of conviction. Allowances will only recommence at a point when they are no longer in custody and are able to perform the full range of duties. No retrospective payment of allowances forgone will be made in any circumstances.

Where payment of any allowance has already been made in respect of any period during which the member concerned ceases to be a member of the County Council; or is in any other way not entitled to receive the allowance in respect of that period, the County Council may require that such part of the allowance as relates to any such period be repaid to the County Council.

### **Annual Increases (Indexing) of Allowances**

The County Council has resolved to exercise the power available to it under the 2003 Regulations to increase allowances annually in line with the movement in an appropriate index.

The index to be applied is the average % increase in pay for employees covered by the National Joint Council for Local Government Services for the previous 12 months (usually referred to as 'Green Book' employees).

Indexation will be applied to the basic, special responsibility and co-opted members' allowances for the four-year period up to May 2022 unless the Council resolves otherwise. (The 2003 Regulations allow indexing for a maximum of four years but also require that Council votes to adopt a Scheme of Members' Allowances each year.)

### **Backdating Of Allowances**

*approved version 22.02.19*

6/5

The County Council has resolved to adopt the backdating provisions in the 2003 Regulations.

Where an amendment is made which affects an allowance payable for the year in which the amendment is made, the amendment will apply from the beginning of the year in which the amendment is made or such later date as specified by the County Council.

### **Co-opted Members Allowance**

The County Council has resolved to exercise the power available to it under the 2003 Regulations to pay a co-optee's allowance in respect of the attendance of individuals co-opted onto committees, sub-committees, working groups and scrutiny panels of the Council. The allowance will cover attendance at such meetings and any other activity arising directly from that role (e.g. seminars, conferences, training courses, etc.).

The Co-opted Members Allowance is set out in Schedule 1.

The Council Committees etc. relevant to this allowance are those set out in the Articles of the Constitution.

Entitlement to this allowance will be restricted to co-optees who are not remunerated by way of an allowance, salary, etc. from another body as a direct result of their membership of the Committee in question. For example, a District Councillor representing that body would not qualify for this allowance.

The allowance will be paid monthly and in the case of part year service, pro-rata to the service undertaken.

Where a co-optee undertakes any role that would otherwise qualify for receiving a Special Responsibility Allowance set out in Schedule 1 they will receive the relevant Special Responsibility Allowance (but not the basic allowance) that would have been paid to an Elected Member discharging that role. In such circumstances the co-optee will not also receive the standard co-optees allowance for the period they are in receipt of the Special Responsibility Allowance.

The provisions of this scheme relating to renunciation, travel and subsistence expenses, suspension of payments, annual increases and backdating also apply to the Co-opted Members Allowance.

### **IT Related expenses**

*approved version 22.02.19*

6/6



The Council will facilitate use of Information Technology to assist Elected Members and Co-opted Members (Members) in their approved duties.

## Revised Schedule 1 – Allowances

Responsibilities and allowances within bands 1-12 in the table below are 'Special Responsibility Allowances'.

Band	Responsibility	Allowance
-	Basic Allowance	£11,055.27
1	Leader of the Council	£35,026.42
2	Deputy Leader of the Council	£22,986.04
3	Members of the Executive	£19,702.32
4	Chairman of the County Council	£13,266.24
	Chairman of the Overview and Scrutiny Management Committee	
	Chairman of the Health Scrutiny Committee for Lincolnshire	
	Chairman of the Audit Committee	
	Chairman of Health and Wellbeing Board	
5	Chief Whip	£10,499.08
6	Chairmen of the Scrutiny Committees	£9,949.73
	Chairman of the Planning & Regulation Committee	
	Leader of the Opposition	
	Chairman of the Pensions Committee	
7	Executive Support Councillor	£8,756.67
	Chairmen of the Scrutiny Panels	
8	Minority Group Leaders	£5,472.95
9	Vice-Chairman of the County Council	£4,422.16
	Vice-Chairman of the Overview and Scrutiny Management Committee	
	Vice-Chairman of the Health Scrutiny Committee for Lincolnshire	
	Vice-Chairman of the Health and Wellbeing Board	
	Vice-Chairman of the Audit Committee	
	Chairman of the Definitive Map & Statement of Public Rights of Way Sub Committee	
	Chairman of the Councillor Development Group	
10	Vice-Chairmen of the Scrutiny Committees	£3,316.63
	Vice-Chairman of the Planning & Regulation Committee	
	Vice-Chairman of the Pensions Committee	

approved version 22.02.19

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11	Vice-Chairman of the Scrutiny Panels	£2,918.89
12	Vice-Chairman of the Definitive Map & Statement of Public Rights of Way Sub Committee	£1,105.54
	Member of the Shadow Executive	
-	Childcare and dependents' carers' allowance  The Monitoring Officer has discretion to increase the rate in particular cases of need.	An hourly rate equivalent to the National Minimum Wage for the time being
-	Co-opted Member	£821.00

## Schedule 2 – Approved Duties

The 2003 Regulations specify the circumstances in which dependant's carer's allowance travel and subsistence expenses may be paid. These are all encompassed in the definition of 'approved duties' below.

Approved duties are duties undertaken in exercise of the role of County Councillor

That includes, but is not limited to:

- Meetings of, and activities related to, the County Council, any of its Committees, Executive functions or any bodies of which the County Council is a Member or appoints members
- Any legislative requirement for Members to be present
- Any Standing Orders of the County Council
- The exercise of any function of the County Council
- Any meeting where two or more political groups are invited by an Officer
- Any meeting where one political group is invited by the Chief Executive or an Executive Director
- County Councillors' activities within their Division including surgeries, formal meetings of any relevant Parish Council, Residents Association or similar organisation

Meetings and other activities related to the management or operation of any political group or political party are not approved duties.

## **Schedule 3 - Travelling & Subsistence and Other Allowances**

### **Public Transport**

Travel by public transport should be made at the lowest rate available for the journey(s) in question.

Air travel, foreign travel and, in exceptional cases, travel at rates higher than lowest available fares should be approved in advance by the Head of Democratic Services.

Travel costs will be reimbursed at the actual cost incurred with claims supported by receipts.

Members are encouraged to order tickets for travel by public transport through their administrative support who will use the County Council's travel procurement arrangements to secure good value for money that will normally be paid direct by the County Council.

### **Private vehicles and car parking**

Rates payable for travel by a private vehicle used by a Member and for official passengers will be those equivalent to HM Revenue & Customs Approved Mileage Rates for the time being. Rates and changes in rates will be notified to Members.

Members are responsible for ensuring that private vehicles used by them comply with all relevant legislation for the purposes for which they are used including safety, taxation and insurance.

Car parking will be reimbursed at the actual cost incurred with claims supported by receipts.

### **Taxis**

In cases of urgency, or where no public transport is reasonably available, Members may travel by taxi and claim the amount of the actual cost incurred, supported by receipts.

### **Subsistence Expenses**

In cases where the County Council provides a meal no other meal allowance will be paid. On County Council meeting days Members will be provided with a lunch in the County Restaurant and will consequently not be entitled to claim expenses.

In other cases, the County Council will reimburse reasonable costs of meals incurred whilst undertaking approved duties except that subsistence expenses will not be paid

*for 'County Councillors' activities within their Division including surgeries, meetings of any relevant Parish Council, Residents Association or similar organisation.'*

Claims must be for actual costs incurred supported by receipts.

Overnight accommodation should be booked in advance on behalf of the Member by their administrative support using the County Council's standard procurement arrangements to secure best value for money that will normally be paid direct by the County Council.

In cases where a Member incurs reasonable costs for overnight accommodation, it will be reimbursed at actual cost incurred with claims supported by receipts.

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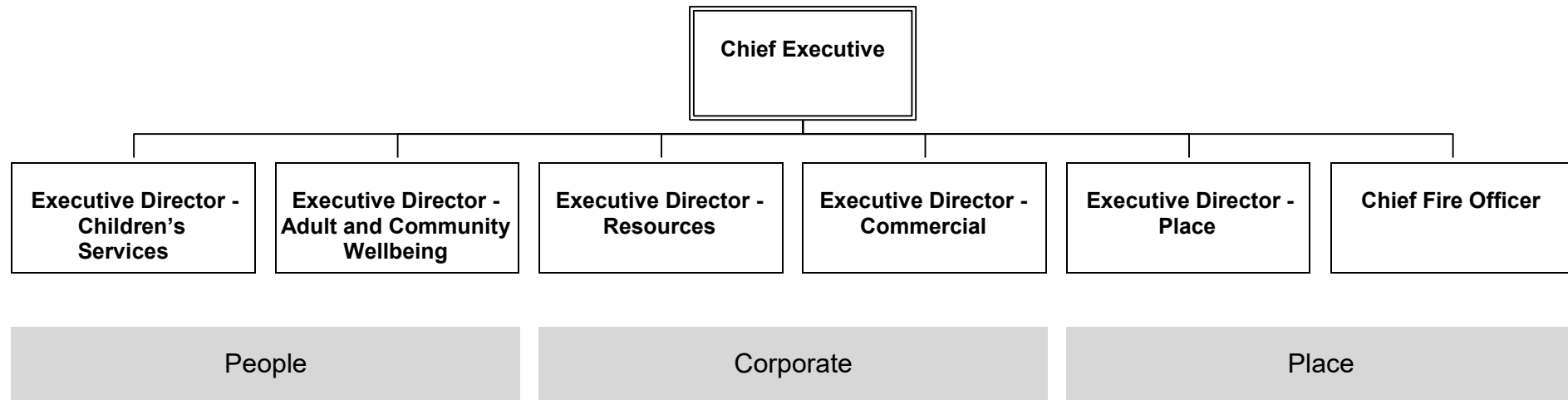
# **Part 7**

## **MANAGEMENT STRUCTURE**

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# Corporate Leadership Team



## KEY

People

Corporate

Place

These are the three themes that officers will use to organise our work and to create a Corporate plan which will be the main vehicle to deliver policy and business objectives of the Council.

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