

---

## **Part 4**

# **RULES OF PROCEDURE**

---



# 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;

- (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.

4/4

### **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 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 Secunder's 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 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**

4/14

*approved version 19.02.21*

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 –<br><br>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or<br><br>(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.

### **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;

4/23

- (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**

4/27

*approved version 19.02.21*

### 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.

4/31

*approved version 19.02.21*

- (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 Policy

4/33

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 forthcoming 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 (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 relevant Executive Councillor and the Council for consideration,

4/47

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

4/49

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 sub-paragraph (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

4/54

*approved version 19.02.21*

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.

# **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

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 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

4/62

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.



## **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**

4/65

*approved version 19.02.21*

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

4/67

*approved version 19.02.21*

## **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

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

4/72



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 procurement rules (e.g. the Public Contract Regulations 2015 (PCR 2015) or equivalent);
- 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, 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 Directorates 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 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 PCR 2015**

The Public Contract Regulations 2015 apply to all contracts for goods, services or works as detailed in the Regulations.

Where an estimated value of a contract exceeds the current relevant threshold then the contract must be awarded in accordance with the above 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 PCR 2015 applies inclusion on any list does not automatically pre-qualify any firm and absence from the list does not automatically exclude any firm.

The PCR 2015 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 PCR 2015 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 the PCR 2015. 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 FACILITIES PARTNERSHIP LIMITED**

The County Council has entered into and invested capital in a wider contractual partnership with Serco which is providing some services within the following areas:

- Information Technology
- HR Administration
- Customer Contact
- Financial Assessment and Administration

It has entered into separate contractual partnership with Vinci Facilities Partnership

4/87

*approved version 19.02.21*

Limited 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 Executive Director, Commercial to ensure that all Officers are aware of when goods and services can and should be purchased directly from Serco and Vinci Facilities Partnership Limited.

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 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.

The PCR 2015 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 Facilities Partnership Limited; 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 PCR 2015 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 PCR 2015.

#### **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 threshold for Services)

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 Threshold for Services)

Contracts for services and supplies of a high value must be procured in accordance with the PCR 2015 as such contracts will be covered by the procurement regime.

For works contracts of a high value but below the threshold for works at least five tenders should be invited. Invitation may be by direct invitation from a select list.

Where it is not possible to obtain five competitive tenders the officer must keep a record of the reasons for this.

#### High Value Procurement (Above relevant PCR 2015 threshold).

The PCR 2015 shall be followed for all procurements subject to them. This may include the use of a Framework let in accordance with legal requirements. Contract and Procurement Procedure Rules provide further guidance.

### **3.4 Award of Contracts**

Tenders subject to the full PCR 2015 shall be evaluated in accordance with the relevant regulations and the award criteria. All tenders and Requests for Quotations which are not subject to the full PCR 2015 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 Light Touch Regime Threshold as varied from time to time, 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 Light Touch Regime Threshold as varied from time to time, 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 the PCR 2015 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 the PCR 2015 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 Pro-Contract. 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.

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 the PCR 2015 may be extended by negotiation in accordance with the rules set out in the PCR 2015. 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 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.

4/94

*approved version 19.02.21*

|                                       |   |
|---------------------------------------|---|
| 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

4/96

*approved version 19.02.21*



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

4/97

- (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:

4/103

- (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.

4/105

*approved version 19.02.21*

- (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.