



May 2022

## **Council Constitution**

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# **PART 1**

## **SUMMARY AND EXPLANATION**

May 2022

## **THE COUNCIL'S CONSTITUTION**

South Staffordshire Council has a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law. Others are based on choices made by the Council.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business.

More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **WHAT'S IN THE CONSTITUTION?**

Article 1 of the Constitution commits the Council to managing its affairs in the best interests of its community. Articles 2 – 16 explain the rights of residents and how the key parts of the Council operate. These are:

- Councillors (Article 2)
- Residents and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny Committee (Article 6)
- The Cabinet (Article 7)
- Planning and other committees (Article 8)
- Panels and Forums (Article 9)
- The Standards and Resources Committee (Article 10)
- Joint arrangements (Article 11)
- Employees (Article 12)
- Decision making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

## HOW THE COUNCIL OPERATES

The Council comprises 49 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

An up to date list of Councillors can be viewed on the Council's website ([www.sstaffs.gov.uk](http://www.sstaffs.gov.uk)) and at the Council Offices, Codsall. The last whole Council election was held in May 2019.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council is also responsible for appointing the Leader of the Council who then appoints an Executive (together formally entitled "the Cabinet") and for appointing Committees, some of which are responsible for overseeing and reviewing the decisions of the Cabinet, (Scrutiny Committees) while others discharge regulatory responsibilities or other functions which by law may not be discharged by the Cabinet, for example planning and licensing.

The Council also deals with other matters including those reserved to it by Law, all matters dealt with by the Council, as a whole are listed in Article 4.

The Leader of the Council determines the size of and appoints between 2 and 9 members of the Council to the Cabinet. These members are known as Cabinet Members or Assistant Cabinet Members. The Leader also allocates areas of responsibility to members of the Cabinet and may remove them from the Cabinet at any time.

The Leader is required to appoint one of the members of the Cabinet to be his or her deputy.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

The Council has adopted the International Holocaust Remembrance Alliance's (IHRA) working definition of anti-Semitism. This can be seen in its entirety [here](#).

The Council is a member of the Local Government Association (through whichever organisational structure it operates)

## **HOW DECISIONS ARE MADE**

The Leader of the Council ("the Leader") is responsible for the discharge of executive functions. The Leader may delegate some or all of those functions to members of the Cabinet and to others.

Meetings of the Cabinet will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. Further details on the role of the Cabinet can be found in Part 2 Article 7 of this Constitution. Details of the areas of responsibilities held by the Cabinet Members and the powers and duties of the Committees/Sub-Committees can be found in Part 3 of this Constitution.

## **OVERVIEW AND SCRUTINY**

The Council appoints an Overview and Scrutiny Committee, a Wellbeing Select Committee and an Asset Scrutiny Panel to support the work of the Cabinet and the Council as a whole.

These three Committees carry out the scrutiny function on behalf of the Council; full details can be found in Part 2 Article 6.

They allow a wider involvement in Council business by involving non-councillors from the wider public sector, voluntary and community groups to help them in their work. They may make reports and recommendations to the Cabinet and the Council as a whole on its policies, budget and service delivery.

## **PLANNING AND OTHER COMMITTEES**

The Council has appointed a Planning Committee and a Licensing and Regulatory Committee to deal with matters mainly relating to applications from individuals for consents, approvals and permissions from the Council and a number of other similar functions.

It has also appointed an Audit & Risk Committee to deal with internal and external audit matters.

The Council has appointed an Investigatory and Disciplinary Committee and a Disciplinary and Grievance Appeals Committee to deal with specified employment matters.

Further details of these Committees are set out in Part 2 Article 8 of this Constitution.

## **STANDARDS AND RESOURCES COMMITTEE**

The Council has established a Standards and Resources Committee to deal with matters relating to the Code of Conduct for Councillors and various governance related issues. Further details of the Standards and Resources Committee are set out at Part 2 Article 10 of this Constitution.

## **THE COUNCIL'S STAFF**

The Council has people working for it (referred to as 'employees') to give advice, implement decisions and manage the day-to-day delivery of its services. Some employees have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between employees and councillors. The Council's most senior member of staff is the Chief Executive. A protocol (to be found in Part 5) governs the relationships between employees and Councillors.

## **WORKING IN PARTNERSHIP**

The Council works in partnership with other organisations to provide seamless, high quality services to its residents and businesses. Further details of the formal partnership arrangements can be found at Part 2 Article 11 of this Constitution.

## **RESIDENTS' RIGHTS**

Residents have a number of rights in their dealings with the Council. These are set out in more detail in Part 2 Article 3 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individual's legal rights. Where members of the public use specific council services, they may have additional rights. These are not covered in this Constitution.

Residents have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of this Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- attend meetings of the Cabinet (except where, for example, personal or confidential matters are being discussed);
- see reports and background papers, and any record of decisions made by the Council and the Cabinet subject to safeguards concerning sensitive matters;
- complain to the Council about any matter for which the Council is responsible, the Council has a formal complaints procedure to assist someone to do this – a leaflet explaining this procedure is available from the Council Offices, details of the procedure can be found on the Council's website;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. (However, they should only do this after using the Council's own complaints process);

- complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct for Councillors;
- inspect the Council's accounts and make their views known to the external auditor;
- obtain details of Councillors, names and addresses and their political groups.

The Council welcomes participation by its residents in its work.

Copies of documents available to the public are normally deposited at the Council Offices and published on the Council's website. Reports recently submitted to the Council, the Cabinet and Committees and Sub-Committees are available on the Council's website, as are the minutes of recent meetings setting out the decisions taken. Major Policy Documents are also made available on the website ([www.sstaffs.gov.uk](http://www.sstaffs.gov.uk)).

### **DIAGRAM OF THE STRUCTURE OF THE COUNCIL**

The structure is set out in the diagram below. The structure has 7 main elements.

The Council (all 49 Councillors)

The Cabinet – the Leader of the Council plus 6 Cabinet members appointed by the Leader of the Council, one of whom is designated as Deputy Leader of the Council.

Planning Committee (18 Councillors)

Licensing and Regulatory Committee (15 Councillors)

Audit & Risk Committee (8 Councillors)

Overview & Scrutiny Committee (the 42 Councillors – who are not members of the Cabinet, Asset Scrutiny Panel (7 Councillors) and the Wellbeing Select Committee (15 Councillors who are not members of the Cabinet plus the Lead Councillor for Health Scrutiny in South Staffordshire as appointed by Staffordshire County Council) (together performing scrutiny function).

The Standards and Resources Committee (14 Councillors plus 6 Parish Councillors co-opted in a non-voting capacity).

Investigatory and Disciplinary Committee – 7 members of the Council who are not members of the Disciplinary and Grievance Appeals Committee

Disciplinary and Grievance Appeals Committee – 7 members of the Council who are not members of the Investigatory and Disciplinary Committee

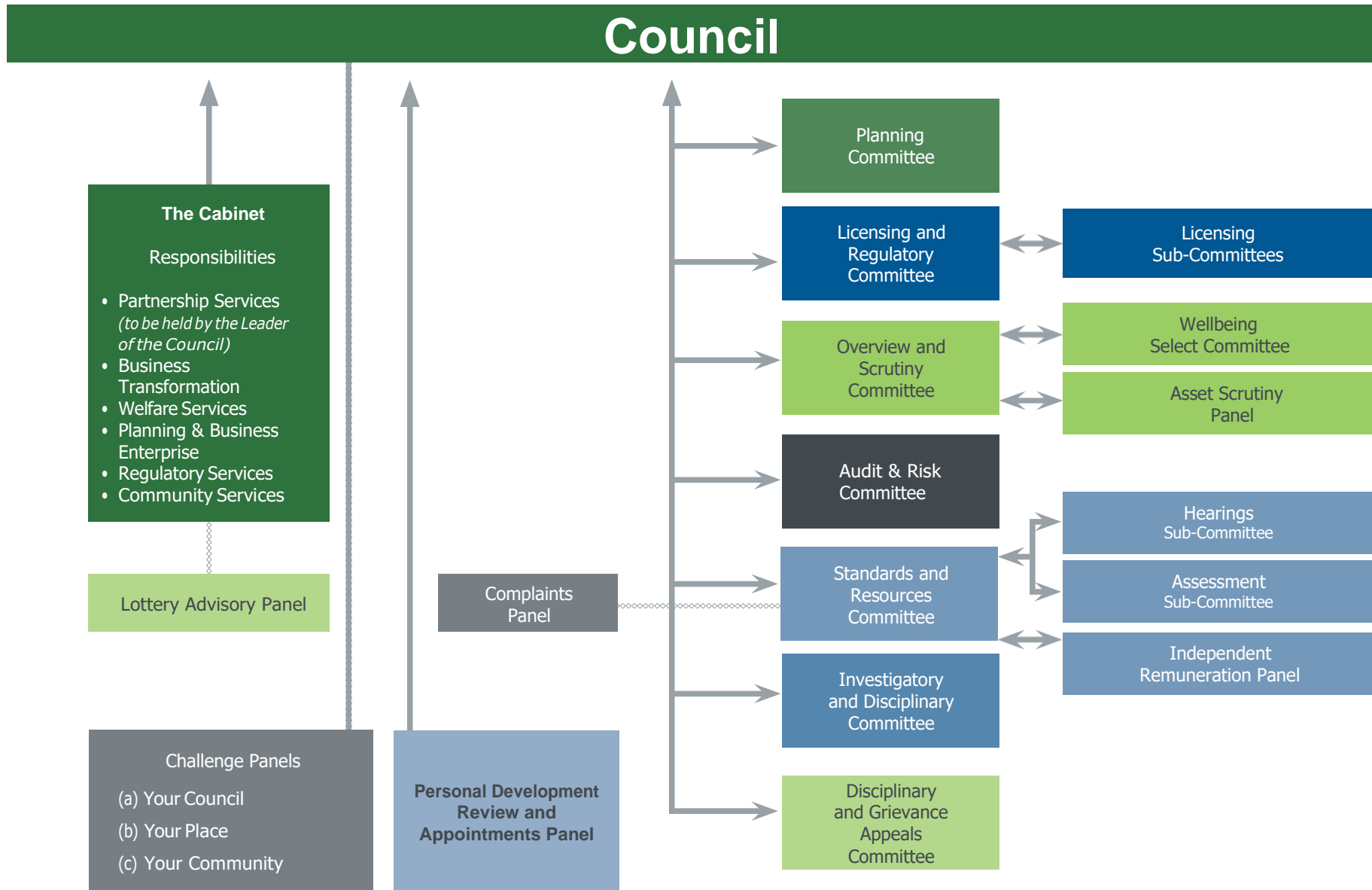
Personal Development Review and Appointments Panel – 6 members of the Council (including the Leader of the Council)



NB. (i) The Housing Review Panel advises the relevant Cabinet member re: reviews under Section 202 of the Housing Act 1996 (as amended by the Homelessness Act 2002) and determines appeals against decisions to refuse, suspend or cancel membership of the Property Accreditation Scheme.

(See Diagram overleaf)

# Diagram of the structure of the Council





## **PART 2**

### **ARTICLES OF THE CONSTITUTION**

May 2022

<b>Article 1</b>	<b>The Constitution</b>	<b>1</b>
<b>Article 2</b>	<b>Councillors</b>	<b>2-4</b>
<b>Article 3</b>	<b>Residents and the Council</b>	<b>5</b>
<b>Article 4</b>	<b>The Council</b>	<b>6-10</b>
<b>Article 5</b>	<b>Chairing the Council</b>	<b>11</b>
<b>Article 6</b>	<b>Overview and Scrutiny Committee</b>	<b>12-16</b>
<b>Article 7</b>	<b>The Cabinet</b>	<b>17-19</b>
<b>Article 8</b>	<b>Planning and other Committees</b>	<b>20-24</b>
<b>Article 9</b>	<b>Panels and Forums</b>	<b>25-27</b>
<b>Article 10</b>	<b>The Standards and Resources Committee</b>	<b>28-29</b>
<b>Article 11</b>	<b>Joint Arrangements</b>	<b>30-31</b>
<b>Article 12</b>	<b>Employees</b>	<b>32-37</b>
<b>Article 13</b>	<b>Decision Making</b>	<b>38-40</b>
<b>Article 14</b>	<b>Finance, Contracts and Legal Matters</b>	<b>41-42</b>
<b>Article 15</b>	<b>Review and Revision of the Constitution</b>	<b>43-44</b>
<b>Article 16</b>	<b>Suspension, Interpretation and Publication of the Constitution</b>	<b>45</b>
<b>Schedule 1</b>	<b>Description of Executive Arrangements</b>	<b>46</b>

- **ARTICLE 1 – THE CONSTITUTION**

- **Powers of the Council**

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

- **The Constitution**

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

The purpose of the Constitution is to:

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

- **Interpretation and Review of the Constitution**

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

- **ARTICLE 2 – COUNCILLORS**

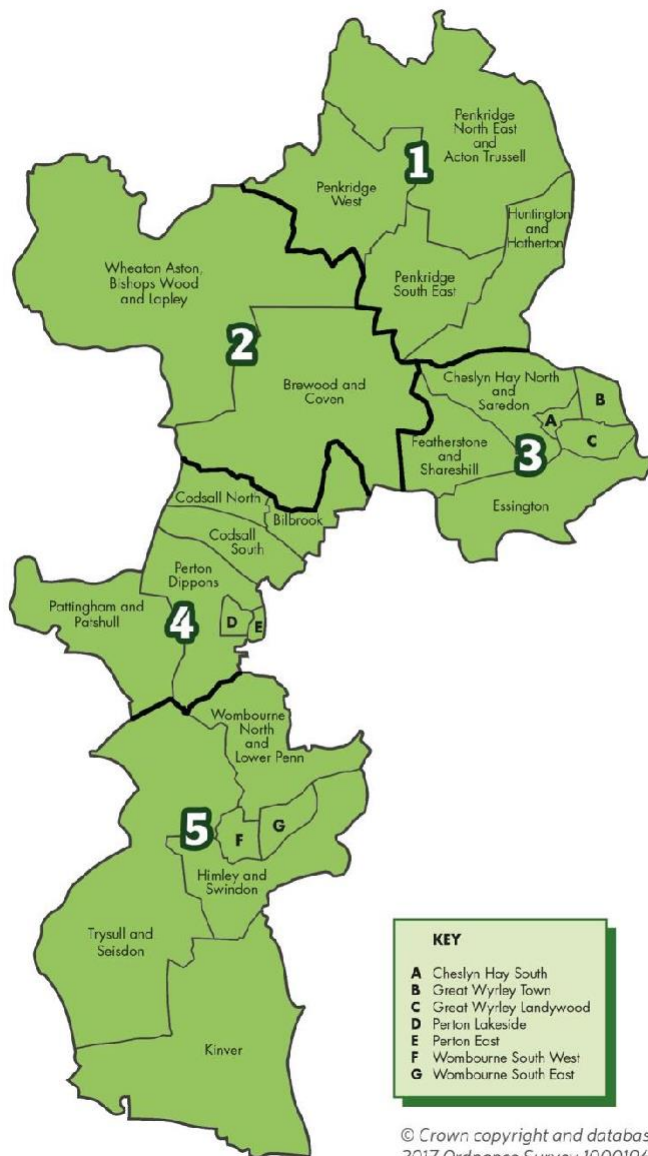
- **Composition and eligibility**

**Composition** The Council comprises 49 councillors. The District is divided into 25 wards. Each ward elects between 1 and 3 councillors as shown below:-

<u>Ward</u>	<u>No. of Councillors Elected</u>	<u>Ward</u>	<u>No. of Councillors Elected</u>
BILBROOK	2	KINVER	3
BREWOD & COVEN	3	PATTINGHAM & PATSHULL	1
CHESLYN HAY NORTH & SAREDON	2	PENKRIDGE NORTH EAST & ACTON TRUSSELL	2
CHESLYN HAY SOUTH	2	PENKRIDGE SOUTH EAST	2
CODSALL NORTH	2	PENKRIDGE WEST	1
CODSALL SOUTH	2	PERTON DIPPONS	1
ESSINGTON	2	PERTON EAST	1
FEATHERSTONE & SHARESHILL	2	PERTON LAKESIDE	3
GREAT WYRLEY LANDYWOOD	2	TRYSULL & SEISDON	1
GREAT WYRLEY TOWN	3	WHEATON ASTON, BISHOPSWOOD & LAPLEY	2
HIMLEY & SWINDON	1	WOMBOURNE NORTH	3
HUNTINGTON & HATHERTON	2	WOMBOURNE SOUTH EAST	2
		WOMBOURNE SOUTH WEST	2

**Eligibility** Only registered voters of the district; those living or working in the district, or those who have a material interest in land within the district (eg. as owner or tenant) will be eligible to stand to hold the office of Councillor. More information can be found at [Electoral Commission](#).

**Localities** – the Council’s area is split into 5 areas which are known as localities, these are made up of the wards as set out in the map below and are assigned numbers in line with the guide to the map – namely localities 1, 2, 3, 4 and 5.



- **Election and terms of councillors**

The regular election of councillors will be held on the first Thursday in May every four years, the next election being in 2023. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

- **Roles and functions of all councillors**

All councillors will:

- collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - effectively represent the interest of their ward and of individual constituents;
  - respond to constituent’s enquiries and representations, fairly and impartially;
  - participate in the governance and management of the Council;
  - be available to represent the Council on other bodies; and
  - maintain the highest standards of conduct and ethics.
- **Rights and duties**
    - Councillors will have the right to access documents, information, land and buildings of the Council as necessary to enable them to carry out the duties and in accordance with the law;
    - Councillors should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer before making public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it;
    - For these purposes, “confidential” and “exempt” information is defined in the Access to Information Rules in Part 4 of this Constitution.
- **Conduct**

Councillors will at all times observe the Councillor’s Code of Conduct and the Protocol on Councillor/Employee Relations set out in Part 5 of this Constitution.
- **Allowances**

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

- **ARTICLE 3 – RESIDENTS AND THE COUNCIL**

- **Residents’ rights**

Residents have the following rights. (Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution):

- **Voting and petitions:** Residents on the electoral roll for the District have the right to vote; sign a petition to request a referendum for an elected mayor form of Constitution; or sign any other petition they wish to support;

- **Information:** Residents have the right to:

- attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- attend meetings of the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- see reports and background papers, and any records of decisions made by the Council, the Cabinet, the non-Executive Committees and significant officer decisions except where confidential or exempt information is likely to be disclosed and the meeting/decision is therefore held/made in private; and
- inspect the Council’s accounts and make their views known to the external auditor.

- **Complaints:** Residents have the right to complain to:

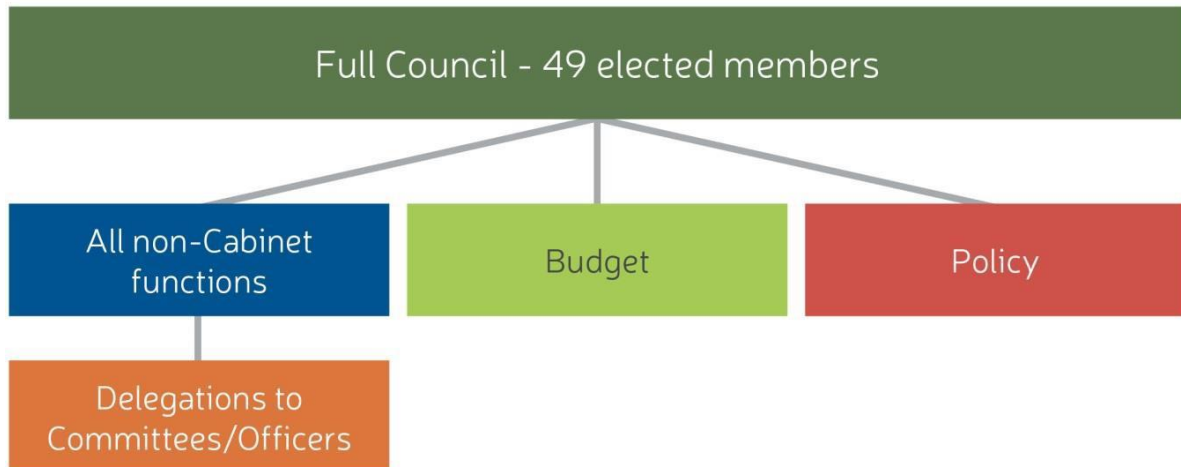
- the Council both generally and using its complaints scheme ([compliments-complaints-and-comments](#))
- the ombudsman (normally after using the Council’s own complaints scheme) ([Local Government Ombudsman](#))
- the Monitoring Officer that a Councillor has breached the Code of Conduct for Councillors ([Code of Conduct Complaint](#))

- **Residents’ responsibilities**

Residents must not be violent, abusive, or threatening to councillors or employees and must not wilfully harm things owned by the Council, councillors, or employees.



- **ARTICLE 4 – THE COUNCIL**



- **Introduction**

The full Council is a formal meeting of all Councillors. The full Council is required by law to take certain important decisions including setting the Council’s Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The full Council provides a central forum for debate and gives the opportunity for Councillors to ask questions about the Council or matters affecting the Council.

- **The Council**

The Role

A meeting of the Council is one which all 49 members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet; it has a role in holding the Cabinet to account. It will carry out some functions itself but others will be delegated to Committees or named officers.

- **Policy Framework**

The policy framework means the following plans and strategies, all of which are to be adopted by the Council:

Council Plan

Development Plan documents that comprise the Council's Local Development Framework and the revocation or revision of such documents (including any joint documents)

Licensing Policy

Gambling Policy

Housing and Homelessness Strategy

Asset Strategy

together with any other plans required by law to have the approval of Council and any other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.

- **Budget**

Responsibility for the budget (sometimes referred to as the Medium Term Financial Strategy) includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

- **Functions**

Only the Council will exercise the following functions:

- adopting and changing the Constitution
- adopting or making material changes to the Council's Policy Framework and Budget ('Budget' encompasses the budgetary allocations to different services and projects, proposed taxation levels, reserves and balances, and any plan or strategy for the control of the authority's borrowings or capital expenditure)
- adopting or making material changes to the Council's Treasury Management Policies and Investment Strategy
- subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any

matter in the discharge of any function which is covered by the policy framework or the budget where the decision maker or decision-making body is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget

- determining which Committees, Sub-Committees, working parties, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies
- taking decisions which are not normally the responsibility of the Leader and which have not been delegated by the Council to Committees, sub-committees, and officers
- making appointments to committees (including the appointment of Chairmen and Vice Chairmen)
- appointing the Leader of the Council
- appointing the Chief Executive (who shall be the Head of the Paid Service, Electoral Registration Officer, and Returning Officer)
- appointing the Chief Finance Officer for the purposes of Section 151 of the Local Government Act 1972
- appointing the Monitoring Officer for the purposes of Section 5 the Local Government and Housing Act 1989
- determining the scheme for and amounts of Councillors' allowances
- the making of Procedure Rules including those in relation to Contracts and Finance
- the delegation of non-executive functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required
- all other matters which, by law, must be reserved to the decision of the Council as a whole
- to receive reports from the Leader, the Cabinet, the Standards and Resources Committee and the Audit & Risk Committee which they have referred to Council
- the setting of the Council Tax and Other matters reserved to the Council pursuant to Section 67 of the Local Government Finance Act 1992

- approving the change of name of the District
  - approving the change of name of a Parish
  - approving a petition for a charter to confer borough status
  - appointing Review Boards (e.g. Council Tax/Discretionary Housing Payments)
  - appointing to Outside Bodies in relation to non-Executive functions
  - approving the Council's Petition Scheme and considering in accordance with the scheme any petitions signed by at least 2,000 qualifying persons
  - to consider reports on lawfulness and maladministration
  - to receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework
  - to take all decisions in respect of delegating non-executive functions to another local authority
- (aa) to take all decisions in respect of accepting the delegation of functions from another local authority.

- **Meetings of the Council**

There are three types of Council meeting:

- 1.1.1 the annual meeting;
- 1.1.2 ordinary meetings;
- 1.1.3 extraordinary meetings.

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

- **Responsibility for functions**

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

- **Quorum**

The quorum for a meeting of the Council shall be one quarter of the number of voting members of the Council.

- **Dismissal of Head of Paid Service, Monitoring Officer or s.151 Officer**

The dismissal of the Head of Paid Service, the Monitoring Officer and the s.151 Officer (the statutory officers) is reserved to Council.

Where the circumstances set out in regulation 6 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 apply any Panel (or Committee or Sub-Committee) advising the Council on dismissal of the 3 posts must appoint at least 2 independent persons to that Panel (Committee or Sub-Committee) – namely independent persons appointed under Section 27(8) of the Localism Act 2011.

The priority for selecting the independent persons is:

- i. Any person who is registered as a local government elector in the register of electors for the area of the authority in accordance with the Representation of the People Acts and has been appointed as an independent person by the Council
- ii. Any person who is not registered as a local government elector in the register of electors for the area of the authority in accordance with the Representation of the People Acts and has been appointed as an independent person by the Council
- iii. Any person appointed by another Council as an independent person.

The Panel (Committee or Sub-Committee) advising Council must be appointed at least 20 working days prior to the relevant meeting of the Council.

Where the circumstances set out in Regulation 6 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 apply, before the Council takes a vote on whether or not to dismiss any holder of one of the 3 posts it must take into account any advice, views or recommendations of the Panel, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer.

Any payments to the independent persons for their assistance to the Council must not exceed the sums payable to that person's role as an independent person for their work under the Localism Act 2011.

## **5.0 ARTICLE 5 – CHAIRING THE COUNCIL**

### **5.1 Role and function of the Chairman**

The Chairman and Vice-Chairman will be elected at the Annual Meeting of the Council. The Chairman of the Council and in his/her absence the Vice-Chairman will have the following roles and functions:

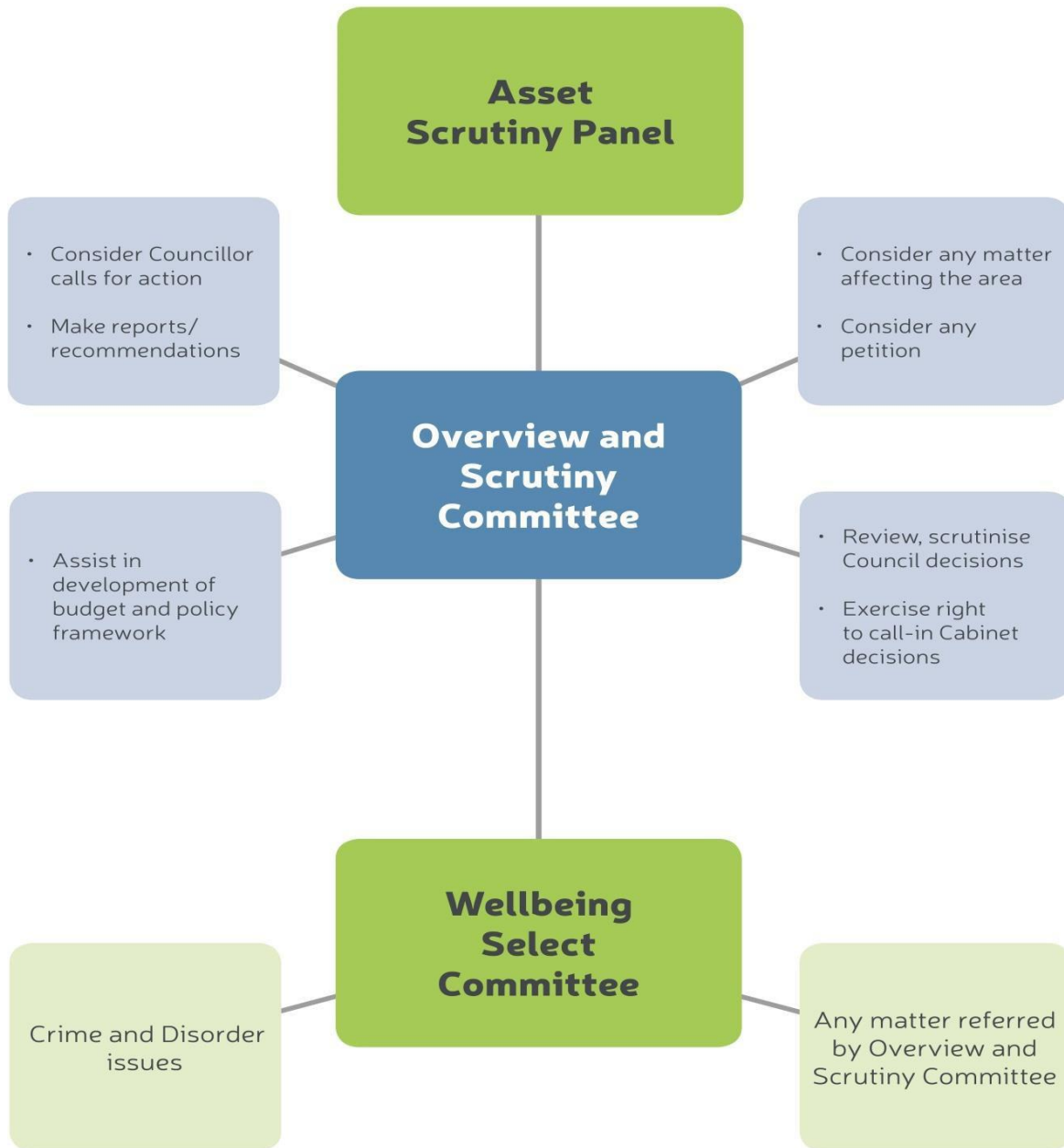
#### Ceremonial Role

The Chairman of the Council is the civic head of the Council and will represent the Council at such civic and ceremonial functions as the Council and he/she determines appropriate.

#### Other Roles

- (i) to uphold and promote the purposes of the Constitution;
- (ii) to preside over meetings of the Council ensuring compliance with the Rules of Procedure in the Constitution so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members determine the strategic objectives, policies and programmes to be followed; and
- (iv) to promote public involvement in the Council's activities and to maintain the dignity of the office and at no time to bring discredit to it.

## 6.0 ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES



**6.1** The Council is required by law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local residents.

- 6.2** The Council will appoint an Overview and Scrutiny Committee (which will comprise all members of the Council except those who are members of the Cabinet), a Wellbeing Select Committee (which will comprise 15 members of the Council (who may not also be members of the Cabinet)), together with the County Councillor appointed by Staffordshire County Council as the Lead Councillor for Health Scrutiny in South Staffordshire) and an Asset Scrutiny Panel (which will comprise 7 members of the Council); together these three Committees will comprise the formal scrutiny arrangements of the Council.

Any member of the Council may refer a matter\* affecting any part of the District to the Overview and Scrutiny Committee (which may in turn refer the matter to the Wellbeing Select Committee) ("Councillor Calls for Action").

(\*Defined as a matter which relates to the functions of the Overview and Scrutiny Committee other than a local crime and disorder matter dealt with by the Police and Justice Act 2006 or a matter which the Secretary of State has excluded by Order).

No member of the Council may scrutinise a decision in which they were involved.

The Chairman of the Overview and Scrutiny Committee may not also chair the Wellbeing Select Committee.

In addition, the Council will appoint an Asset Scrutiny Panel (which will be a Sub-Committee of the Overview and Scrutiny Committee) comprising of 7 members of the Council excluding the Leader and the Cabinet.

### **6.3 General Role**

The Overview and Scrutiny Committee may (either itself or by referral to the Wellbeing Select Committee):

- (a) review and/or scrutinise decisions that are made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its residents;
- (d) exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Cabinet;



- (e) to assist the Council and the Cabinet in the development of its budget and policy framework;
- (f) consider any Councillor Calls for Action requiring scrutiny through the formal scrutiny process;
- (g) consider, in accordance with the Council's Petition Scheme, any petition signed by at least 1,000 qualifying persons requesting a Senior Council Officer to give evidence at a public meeting.

#### 6.4 Specific functions

- (a) **Policy Development and Review.** The Overview and Scrutiny Committee and Wellbeing Select Committee may:
  - (i) assist the Council and the Chief Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options; and
  - (iv) question members of the Cabinet and employees about their views on issues and proposals affecting the area;
- (b) **Scrutiny.** The Overview and Scrutiny Committee (either itself or by referral to the Wellbeing Select Committee) may:
  - (i) review and scrutinise decisions made by and performance of any member exercising executive functions and employees both individually and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question any member exercising executive functions and employees about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives, or projects;
  - (iv) make recommendations to the Cabinet and/or the Council arising from the outcome of the scrutiny process;
  - (v) question and gather evidence from any person (with their consent).

- (vi) consider and make recommendations on a Councillor Call for Action
  - (vii) challenge a decision of the Cabinet or an officer not to classify a certain decision as “key”.
- (c) **Scrutiny of regulatory decisions.** The Overview and Scrutiny Committee and Wellbeing Select Committee may review policies and procedures in connection with any regulatory functions exercised by Planning and Licensing & Regulatory Committees, and Sub-Committees thereof, or by officers, but such a review shall not include scrutiny of any such decision relating to an individual application for determination, consent, licence, permission etc.
- (d) **Finance.** The Overview and Scrutiny Committee shall exercise overall responsibility for the finances made available to that Committee and to the Wellbeing Select Committee.
- (e) **Employees.** The Overview and Scrutiny Committee shall exercise overall responsibility for the work programme of any employees employed to support its work and that of the Wellbeing Select Committee and they will be independent of the Cabinet in that area of work.

#### **6.5 Wellbeing Select Committee**

The Wellbeing Select Committee will act as the Council’s Crime and Disorder Committee for the purposes of the Crime and Disorder (Overview and Scrutiny) Regulations. The scrutiny of all matters relating to health and wellbeing sits with this Committee. Any member of the Council, whether a member of this Committee or not, may refer a local crime or disorder matter\* to the Committee.

#### **6.6 Asset Scrutiny Panel**

The Asset Scrutiny Panel will undertake scrutiny functions in respect of all aspects of the Council’s Asset Strategy.

#### **6.5 Proceedings of the Overview and Scrutiny Committee, Asset Scrutiny Panel and Wellbeing Select Committee**

The Overview and Scrutiny Committee, the Asset Scrutiny Panel and the Wellbeing Select Committee will each conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

#### **6.6 Quorum**

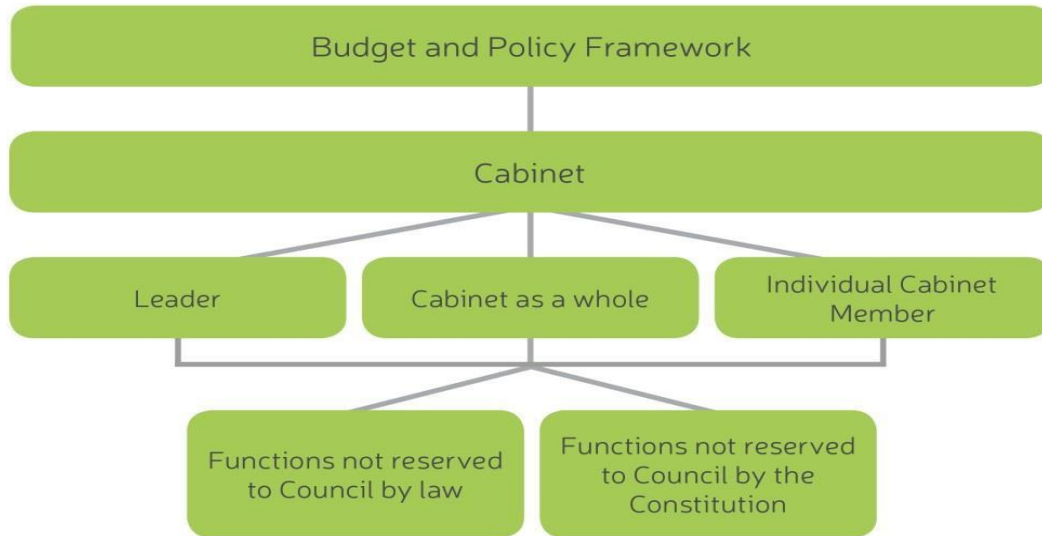
The quorum for a meeting of the Overview and Scrutiny Committee shall be one quarter of the number of voting members of the Overview and Scrutiny Committee.

The quorum for a meeting of the Wellbeing Select Committee shall be one quarter of the number of voting members of the Wellbeing Select Committee.

The quorum for a meeting of the Asset Scrutiny Panel shall be three members.

- \* Local crime and disorder matter means a matter concerning:
  - a) crime and disorder (including anti-social behaviour or other behaviour adversely affecting the local environment) or
  - b) the misuse of drugs, alcohol or other substances.Where such a matter affects all or part of the electoral area for which the member is elected or any person who lives or works in that area (s.19 Police and Justice Act 2006)

## 7.0 ARTICLE 7 - THE CABINET



### 7.1 Role

The Cabinet and individual cabinet members are appointed by the Leader to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. Many decisions will be made by the Leader, Cabinet or individual cabinet members rather than the full Council.

The Leader, Cabinet or individual cabinet members will exercise functions which are not the responsibility of the Council or its Committees by law or under this Constitution and will do so within the policy framework and budget set by the Council in accordance with these arrangements.

The Cabinet has a key role in proposing the budget and policy framework to the Council. The Cabinet and its members will lead the strategic direction and the drive for best value; lead the preparation of the Council's policies and budget; take in year decisions on resources and priorities and be the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs. The Cabinet will also respond to any recommendations and reports from the Overview and Scrutiny Committee, and the Standards and Resources Committee relating to its functions.

The responsibilities of each individual member of the Cabinet are allocated by the Leader of the Council and are set out in Part 3 of this Constitution.

### 7.2 Form and composition

The Cabinet will consist of the Leader of the Council and between 2 and 9 members of the Council appointed to the Cabinet by the Leader of the Council and known as

Cabinet Members or Assistant Cabinet Members; one of whom the Leader of the Council will appoint Deputy Leader of the Council.

### **7.3 Leader of the Council**

The Leader of the Council will be a councillor elected to that position at the first Annual Meeting of Council after a whole Council election until the day of the next post-election Annual Meeting of Council. The Leader of the Council will hold office until or unless:

- (i) he/she resigns from the office; or
- (ii) he/she is no longer a councillor; or
- (iii) he/she is removed from office by resolution of the Council.

The Leader will carry out all of the Council's executive functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **7.4 Other Cabinet Members**

The Cabinet Members will be councillors appointed to the Cabinet by the Leader of the Council and shall hold office until:

- (i) they are removed from office either collectively or individually by the Leader of the Council;
- (ii) they resign from office;
- (iii) the Leader of the Council ceases to hold office (except that the Deputy Leader of the Council shall act as Leader of the Council until Council appoints another Leader);
- (iv) they are no longer councillors.

The Leader of the Council may change the membership of the Cabinet at any time.

One of the Cabinet Members will be appointed by the Leader of the Council as Deputy Leader of the Council. The Deputy Leader may exercise all of the functions of the Leader of the Council where the position is vacant or where the Leader is absent or is otherwise unable to act. The Leader of the Council may remove the Deputy Leader from office at any time.

## **7.5 Responsibility for functions**

- (a) The Monitoring Officer will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, employees, or joint arrangements are responsible for the exercise of particular Cabinet functions; and
- (b) Where a Cabinet Member is unable to act, either through absence or otherwise, the Leader of the Council shall act in his/her place, if the Leader of the Council is unable to act, either through absence or otherwise, the Deputy Leader of the Council shall act in his/her place.

## **7.6 Delegation of Functions**

The Leader of the Council may exercise executive functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge as set out below:-

- (a) the Leader of the Council may delegate executive functions to:-
  - (i) the Cabinet as a whole;
  - (ii) a Committee of the Cabinet (comprising Cabinet Members only);
  - (iii) an individual Cabinet Member;
  - (iv) a joint committee;
  - (v) another local authority or the executive of another local authority;
  - (vi) an employee of the Council.

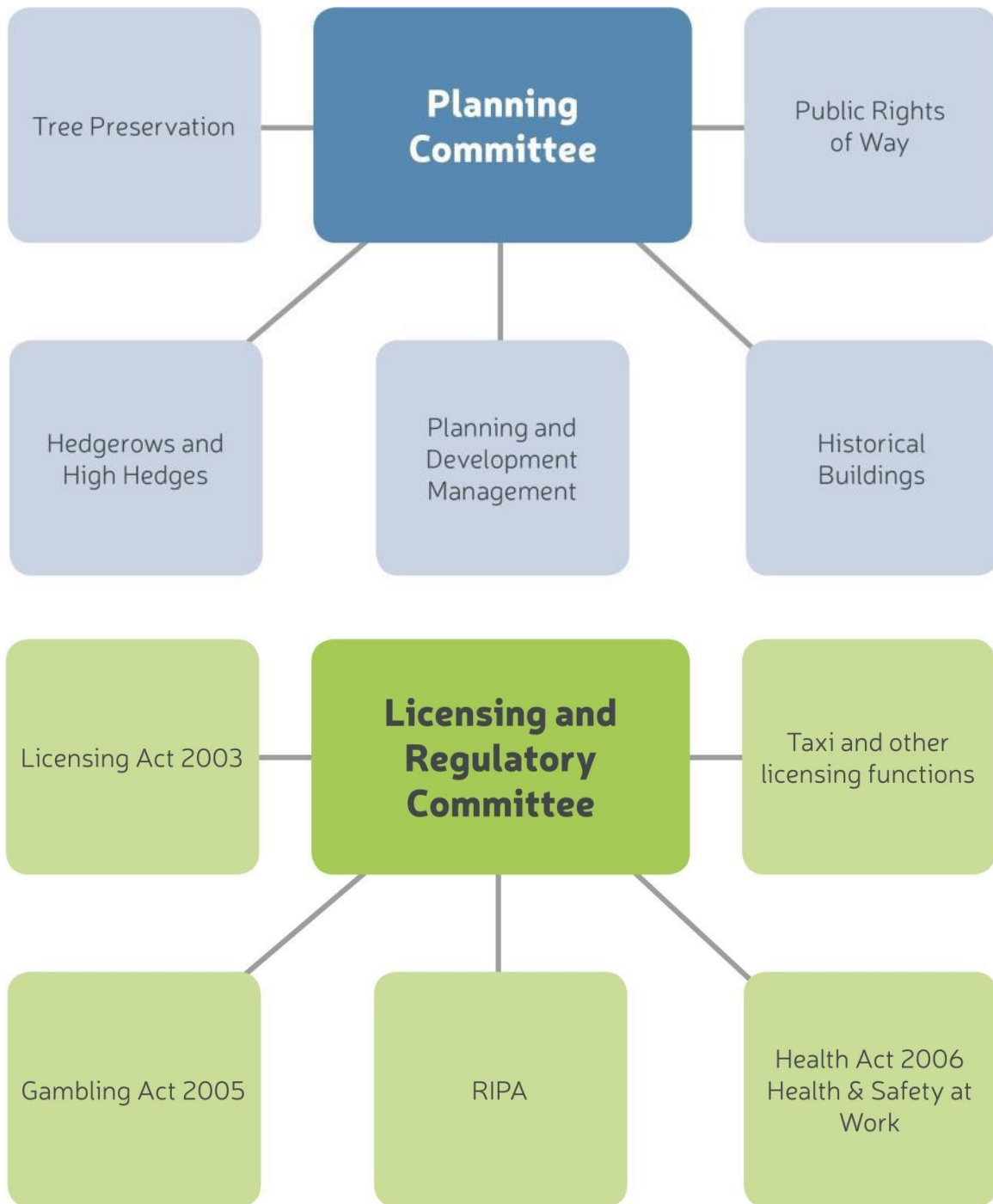
## **7.7 Proceedings of the Cabinet**

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

## **7.8 Quorum**

The quorum for a meeting of the Cabinet shall be three voting members of the Cabinet.

## 8.0 ARTICLE 8 – PLANNING AND OTHER COMMITTEES



### 8.1 Introduction

The Council will appoint committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the full Council.

### 8.2 Standing Committees

The Standing Committees are listed below and full details of their functions can be found in Part 3 of the Constitution (Responsibility for Council Functions) :-

- **Planning Committee**

The role of the Planning Committee is to be responsible for determining applications and enforcement decisions of the Council in relation to Town and Country Planning and other related matters as set out in Part 3 of the Constitution.

The Planning Committee shall

- comprise 18 members of the Council
- Be politically balanced in accordance with the Local Government and Housing Act 1989 (“the 1989 Act”)
- Shall, provided that the Council can meet the applicable political balance tests in the 1989 Act as regards the composition of the whole Committee, be represented by members from the different localities as follows:
  - 3 members from locality 1
  - 3 members from locality 2
  - 4 members from locality 3
  - 4 members from locality 4
  - 4 members from locality 5

The quorum for a meeting of the Planning Committee shall be one quarter of the number of voting members of the Committee quorum is therefore generally 5.

- **Licensing and Regulatory Committee**

The role of the Licensing and Regulatory Committee is to be responsible for determining applications and enforcement decisions of the Council in relation to all licensing matters (other than those which are by law matters for the Cabinet) and other related matters, (including the Regulation of Investigatory Powers Act) as set out in Part 3 of the Constitution.

The Licensing and Regulatory Committee shall comprise 15 Councillors appointed by the Council at its Annual Meeting. The Committee can exercise certain of its functions (under the Licensing Act 2003, the Gambling Act 2005 and taxi licensing legislation) through Licensing Sub-Committees; which shall comprise of any 3 (in the case of Licensing Act or Gambling Act matters) or any 5 (in the case of taxi licensing matters) of the 15 Councillors of the Committee. The Director



Legal and Governance is responsible for choosing the members of any such sub-committee.

The quorum for a meeting of the Licensing and Regulatory Committee shall be one quarter of the number of voting members of the Committee, quorum is therefore generally 4.

The quorum for a meeting of a Licensing Sub-Committee shall be 3 voting members of the Licensing and Regulatory Committee.

The political balance requirements under the Local Government and Housing Act 1989 shall not apply to meetings of the Licensing Sub-Committee.

- **Audit & Risk Committee**

Audit & Risk Committee shall comprise 8 Councillors appointed by the Council at its Annual Meeting and who shall not be members of the Cabinet.

The role of the Audit & Risk Committee is to provide those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes and other related matters as set out in Part 3 of the Constitution.

The quorum for a meeting of the Audit & Risk Committee shall be three voting members of the Committee.

- **Investigatory and Disciplinary Committee**

The role of the Investigatory and Disciplinary Committee is to investigate and make a determination on any disciplinary action (including dismissal) against any officer listed in paragraph 3 of Schedule 1 Part II of the Local Authorities (Standing Orders) (England) Regulations 2001; save that in Article 4.9 dismissal of the Chief Executive, Monitoring Officer and the Corporate Director Finance and Resources when acting as Section 151 Officer is reserved to full Council, and the rules specified in Article 4.9 apply.

The Investigatory and Disciplinary Committee shall comprise 7 members of the Council; shall include at least one member of the Cabinet and shall comply with the provisions of the Local Government and Housing Act 1989 re political balance.

The quorum of the Committee shall be 3 members which shall include at least one member of the Cabinet.

No member of this Committee may also be a member of the Disciplinary and Grievance Appeals Committee.

The Assistant Director Organisation and People Development is responsible for arranging training for and providing advice to this Committee.

- **Disciplinary and Grievance Appeals Committee**

The role of the Investigatory and Disciplinary Committee is to consider appeals against dismissals and grievances by employees of the Council.

The Disciplinary and Grievance Appeals Committee shall comprise 7 members of the Council; shall include at least one member of the Cabinet and shall comply with the provisions of the Local Government and Housing Act 1989 re political balance.

The quorum of the Committee shall be 3 members which shall include at least one member of the Cabinet.

No member of this Committee may also be a member of the Investigatory and Disciplinary Committee.

The Assistant Director Organisation and People Development is responsible for arranging training for and providing advice to this Committee.

### **8.3 Other Committees and Sub-Committees**

The Council will appoint such other committees as it considers appropriate to exercise any of its functions.

Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the Appointing Committee's terms of reference.

The Council in the case of Standing Committees or the parent committee in the case of sub-committees or panels will, in the case of sub-committees or panels, appoint the members to serve on the committee, sub-committee or panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

#### **8.4 Qualifications for sitting on Planning and other Committees**

Only those members who have undertaken appropriate training at the appropriate time may vote on the relevant committees, sub-committees or panels. These requirements apply to the Planning Committee and the Licensing and Regulatory Committee and any sub-committee or panel thereof. The requirements as to a) the amount and content of the training and b) the timing of the training will be prescribed by the Chief Executive or the Director Legal & Governance and shall include appropriate training on data protection.

## **9.0 ARTICLE 9 – PANELS AND FORUMS**

**9.1** The Council will appoint the following panels to advise on the discharge of certain functions of the Council as set out in Part 3 of the Constitution (Responsibility for Council Functions)

- **Housing Review Panel**

The role of the Housing Review Panel is to consider reviews and make recommendations to the relevant Cabinet Member in relation to certain decisions including determinations on homelessness, inclusion on the Housing Register and decisions on property accreditation schemes as set out in Part 3 of the Constitution.

This Panel shall comprise one Cabinet Member (not being the Cabinet Member for Welfare Services) (Substitute: Leader of the Council); one member and named substitute appointed by the Leader of the Council; one Member and named substitute appointed by the Leader of the Main Opposition Group on the Council or in the absence of such a Leader, one Member and named substitute nominated by the Leader of the Council, who shall not be Members of the controlling group on the Council.

Any decision issued by the Cabinet Member (Welfare Services) (or in the absence of the Cabinet Member, the Leader of the Council) in accordance with recommendations approved by the Housing Review Panel can take immediate effect and is exempt from the call-in arrangements in the Scrutiny Procedure Rules in Part 4 of this Constitution.

The Director Legal & Governance shall act as Clerk to this Panel.

- **South Staffordshire Lottery Advisory Panel**

The role of the Lottery Advisory Panel is to advise the Leader of the Council in respect of the administration of the revenue generated from the central fund of the South Staffordshire Lottery.

The Panel shall comprise 10 Members of the Council, 2 from each Locality; the Panel shall be politically balanced. The Corporate Director Communities and Wellbeing shall attend Panel meetings to support the advisory process. Members of the Panel shall be nominated by the Leader of the Council.

- **Complaint Panel**

The role of the Complaint Panel is to hear and determine complaints against the authority in accordance with the Council's complaints procedure.

This Panel shall comprise 3 persons appointed by the Monitoring Officer (of whom one member shall be a Councillor and two members shall be independent persons); the Panel shall not be chaired by a member of the Council.

- **Independent Remuneration Panel**

The role of the Independent Remuneration Panel is to recommend to the Standards and Resources Committee a scheme for the payment of allowances to members of South Staffordshire Council and to constituent Parish Councils.

This Panel consists of six independent members appointed annually by the Council. The quorum of the Panel shall be 3.

- **Personal Development Review and Appointments Panel**

The role of the Personal Development Review and Appointments Panel is to be responsible for carrying out the personal development reviews of the Chief Executive and the Corporate Directors on a yearly basis.

The role of the Personal Development Review and Appointments Panel is also to be responsible for recommendations to Council as to the appointment of the Chief Executive, Monitoring Officer and Officer holding the post as section 151 officer and to make appointments in so far as the Head of Paid Service is not authorised to do so by virtue of the Local Authorities (Standing Orders) (England) Regulations 2001.

This Panel will comprise the Leader of the Council, the Deputy Leader of the Council, the Leader of the Main Opposition Group (or in the absence of such a Leader, a Councillor nominated by the Leader of the Council who shall not be a member of the controlling group on the Council), the Chairman of the Planning Committee, the Chairman of the Standards and Resources Committee and the Chairman of the Overview and Scrutiny Committee. The Panel shall comply with the provisions of the Local Government and Housing Act 1989 re political balance. As such the above membership may be varied to accord with political balance requirements.

The quorum of the Committee shall be 3 members which shall include at least one member of the Cabinet.

**9.2** A Member of the Cabinet may also be a Member of the Housing Review Panel and a

Complaint Panel.

**9.3** The Council will appoint 3 Challenge Panels covering the following areas:-

- (a) Your Council
- (b) Your Place
- (c) Your Community

The Panels are informal working groups and have no decision making powers or any formal role in the Council's governance arrangements; although their work may inform the actions of the Cabinet or the consideration of matters by the Overview and Scrutiny Committee and the Wellbeing Select Committee.

A Challenge Panel shall comprise no fewer than 15 members of the Council. All members of the Council will be offered a seat on at least one Challenge Panel.

No more than two members of the Cabinet shall sit on any one Challenge Panel.

No member of a Challenge Panel may undertake the challenge/review of a decision made by that member or to which the member was a party to the making of.

A member of the Cabinet or the Chairman of a standing committee or a scrutiny committee may not also chair a Challenge Panel.

Each Panel will agree an informal action plan at the start of each Municipal Year and may make recommendations to inform the work of the Cabinet or the consideration of matters by the Overview and Scrutiny Committee and the Wellbeing Select Committee.

## 10.0 ARTICLE 10 – THE STANDARDS AND RESOURCES COMMITTEE



### 10.1 Introduction

The Council will establish a Standards and Resources Committee. Its role is to promote and maintain high standards of conduct by Councillors, to oversee the following: complaints; proper officer appointment; the elections process and other related matters as set out in Part 3 of the Constitution.

The Council will appoint South Staffordshire Councillor members of the Standards and Resources Committee and co-opt the Parish Council non-voting members of the Committee annually.

The Chairman of the Standards and Resources Committee or of any Sub-Committee of the Committee shall be a voting member of the Standards and Resources Committee.

## **10.2 Composition of the Standards and Resources Committee**

- (a) The Standards and Resources Committee will consist of:
- fourteen councillors other than the Chairman and the Leader of the Council (of whom not more than one shall be a member of the Cabinet)
  - six members of Parish Councils wholly or mainly in the Council's area and who are not a member of South Staffordshire Council co-opted to the Committee in a non-voting capacity (Parish Members)  
(N.B. a Parish Council may have only one Parish Member of the Standards and Resources Committee)

## **10.3 Quorum**

- (a) The quorum for a meeting of the Standards and Resources Committee shall be one quarter of the number of voting members of the Standards Committee, quorum is therefore generally 4.
- (b) The quorum for a meeting of a sub-committee of the Standards and Resources Committee shall be 3 voting members of the sub-committee.

## **10.4 Roles and Function**

The Standards and Resources Committee will have the roles and functions as set out in Part 3 of this Constitution.

## **10.5 The Standards (Hearings) Sub-Committee**

The Standards (Hearings) Sub-Committee shall comprise 7 members of the Standards and Resources Committee (and 3 non-voting parish members). The Sub-Committee shall be chaired by a voting member of the Standards and Resources Committee and shall conduct hearings into allegations that a Councillor (including a Parish Councillor) has breached the Code of Conduct for Councillors of the relevant authority in accordance with the arrangements for such hearings approved by South Staffordshire Council.

## **10.6 The Standards (Assessment) Sub-Committee**

The Standards (Assessment) Sub-Committee shall comprise 7 members of the Standards and Resources Committee (and 3 non-voting parish members). The Sub-Committee shall be chaired by a voting member of the Standards and Resources Committee and shall undertake the initial assessment of a complaint on referral from the Monitoring Officer in accordance with the arrangements for such hearings approved by South Staffordshire Council.



## **11.0 ARTICLE 11 - JOINT ARRANGEMENTS**

### **11.1 Introduction**

There are a number of circumstances where the Council is entitled to carry out certain functions jointly with another local authority.

### **11.2 Arrangements to promote well being**

The Council, acting through the Cabinet and subject to budget and policy, in order to promote the economic, social, or environmental well-being of its area, may:

- (i) enter into arrangements or agreements with any person or body;
- (ii) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (iii) exercise on behalf of that person or body any functions of that person or body.

### **11.3 Joint arrangements**

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

committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

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

#### **11.4 Access to information**

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

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

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Cabinet of another local authority in accordance with the law and any restrictions elsewhere in this Constitution
- (b) The Leader may delegate executive functions to another local authority or the Cabinet of another local authority in accordance with the law and any restrictions elsewhere in this Constitution.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

#### **11.6 Contracting Out**

The Council may contract out to another body or organisation functions:

- (a) which may be exercised by an employee and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
- (b) under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

## **12.0 ARTICLE 12 – EMPLOYEES**

### **12.1 General**

The Council may engage such employees as it considers necessary to carry out its functions.

### **12.2 Chief Officers**

The Council will engage persons for the following posts who will be designated Chief Officers

- Chief Executive
- Corporate Directors
- Director Legal & Governance

### **12.3 Head of Paid Service, Monitoring Officer, and Chief Financial Officer**

The Council designates the following posts as shown:

Chief Executive	-	Head of Paid Service
Corporate Director Finance and Resources	-	Section 151 Officer
Director Legal & Governance	-	Monitoring Officer

Such posts will have functions described in Articles 12.5 – 12.7 below.

### **12.4 Structure**

The overall structure of the Council showing the management and deployment of employees is set out in Part 7 of this Constitution.

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

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

The Chief Executive is responsible to the Council for the manner in which the discharge of the Council functions is co-ordinated, the appointment of employees required for the discharge of functions, and the organisation and training of them.

#### **(b) Restrictions on Functions**

The Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 12.6 Functions of the Corporate Director Finance and Resources

### (a) Ensuring Financial Prudence of Decision Making

After consulting the Head of Paid Service and the Monitoring Officer, the Corporate Director Finance and Resources will report to the Council (and to the Cabinet in relation to an executive function) and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is otherwise unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

### (b) Administration of Financial Affairs

The Corporate Director Finance and Resources will have responsibility for:

- the proper administration of financial affairs of the Council under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1998, and
- conducting a continuous internal audit of the financial affairs of the Council as required by the Accounts and Audit Regulations and for maintaining an adequate and effective system of internal audit as required by those regulations.

### (c) Providing Advice

The Corporate Director Finance and Resources will, where appropriate in consultation with the Monitoring Officer, provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget framework issues to all councillors and will support and advise all councillors and employees in their respective roles.

### (d) Give Financial Information

The Corporate Director Finance and Resources will provide financial information to the media, the public, and the community in accordance with legislation.

### (e) Restrictions on Post

The Corporate Director Finance and Resources cannot be the Monitoring Officer but may hold the post of Head of Paid Service.

## **12.7 Functions of the Monitoring Officer**

(a) Maintaining the Constitution

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

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting the Head of Paid Service and Corporate Director Finance and Resources, the Monitoring Officer will report to the Council (in relation to a non- executive function) and to the Cabinet in relation to an executive function if he/she considers that any proposal, decision, or omission will give rise to unlawfulness or any decision or omission has given rise to maladministration. Such a report will have the effect of preventing the proposal or decision from being implemented until the report has been considered.

(c) Supporting the Standards and Resources Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Resources Committee.

Notwithstanding any duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs and provide copies of any records or documents belonging to the Council to the Standards and Resources Committee, for the purposes of investigation or determination of an allegation that a Councillor has failed to comply with the Code of Conduct for Councillors.

(d) Receiving Reports

The Monitoring Officer will receive and act on reports made by the Council's Standards and Resources Committee.

(e) Conducting Investigations

The Monitoring Officer will conduct investigations into matters as directed by or which fall within the jurisdiction of the Standards and Resources Committee and the Monitoring Officer and make reports or recommendations in respect of the same to the Standards and Resources Committee, in so doing the Monitoring Officer shall comply with any arrangements for such investigations as may be adopted by the Council.

(f) Proper Officer for Access to Information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions, and relevant reports and background papers are made publicly available in accordance with legislation.

(g) Advising whether Cabinet Decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether the decisions of the Cabinet are in accordance with the Council's budget and policy framework.

(h) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

(i) Restrictions on Post

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

## **12.8 Duty to Provide Sufficient Resources to the Monitoring Officer and Corporate Director Finance and Resources**

The Council will provide the Monitoring Officer and the Corporate Director Finance and Resources with such office accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **12.9 General References to Employees in this Constitution**

(a) In addition to the definitions set out above, the following definitions relating to certain employees are used throughout this constitution, and the constitution should be construed with reference thereto:-

- The Corporate Leadership Team
  - Chief Executive, Corporate Directors and Director Legal & Governance
- Assistant Directors
  - includes reference to all Assistant Directors who are responsible for the operational and strategic lead for functions within their areas; they lead on the day to day management of their teams.

### **12.10 Conduct**

Employees will comply with the requirements of the Council's Disciplinary Rules and Procedures relating to conduct, Employees Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this constitution.

### **12.11 Employment**

The recruitment selection and dismissal of officers will comply with the employment rules as set out in Part 4 of this constitution.

## **13.0 ARTICLE 13 - DECISION MAKING**

### **13.1 Responsibility for Decision Making**

The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution. A decision tree setting out the decision making process is set out at the end of this Article.

### **13.2 Principles of decision-making**

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

- (i) proportionality (i.e. the action must be proportionate to the desired outcome);
- (ii) due consultation and the taking of professional advice;
- (iii) due regard to the Members' Code of Conduct;
- (iv) a presumption in favour of openness;
- (v) clarity of aims and desired outcomes;
- (vi) explaining what options were considered;
- (vii) giving the reasons for the decision and the proper recording of those reasons;
- (viii) consideration to ways in which human rights can be enhanced and protected by the Council's actions.

### **13.3 Types of decision –**

- (a) Decisions reserved to Council - Decisions relating to the functions listed in Article 4 will be made by the Council and not delegated.
- (b) Key decisions:
  - (i) A key decision is defined as a decision likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, or to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area. Additionally, the Council had decided that any decision involving expenditure or savings over £300,000 (excluding any decision relating to investment of Council



monies as part of Treasury Management Procedures) will be a key decision;

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in set out in Part 4 of this Constitution.

#### **13.4 Decision making by the Council**

Subject to Article 13.8, the Council will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.5 Decision making by the Cabinet**

Subject to Article 13.8, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.6 Decision making by the Scrutiny Committees**

The Overview and Scrutiny Committee, the Asset Scrutiny Panel and the Wellbeing Select Committee will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

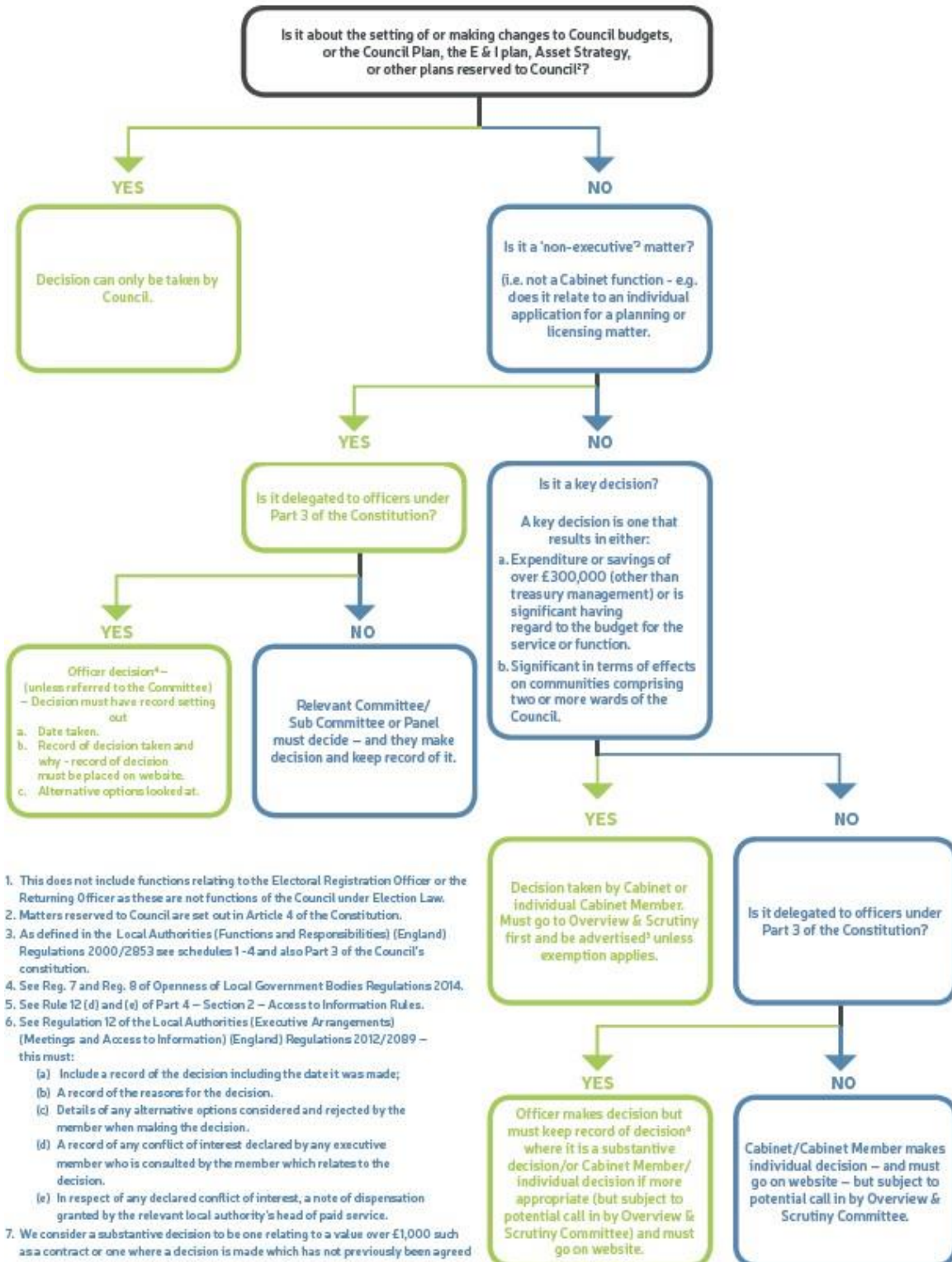
#### **13.7 Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **13.8 Decision making by Council bodies acting as tribunals**

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

# Decision tree for Council functions<sup>1</sup>



1. This does not include functions relating to the Electoral Registration Officer or the Returning Officer as these are not functions of the Council under Election Law.  
 2. Matters reserved to Council are set out in Article 4 of the Constitution.  
 3. As defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 see schedules 1-4 and also Part 3 of the Council's constitution.  
 4. See Reg. 7 and Reg. 8 of Openness of Local Government Bodies Regulations 2014.  
 5. See Rule 12 (d) and (e) of Part 4 - Section 2 - Access to Information Rules.  
 6. See Regulation 12 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089 - this must:  
 (a) Include a record of the decision including the date it was made;  
 (b) A record of the reasons for the decision.  
 (c) Details of any alternative options considered and rejected by the member when making the decision.  
 (d) A record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision.  
 (e) In respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.  
 7. We consider a substantive decision to be one relating to a value over £1,000 such as a contract or one where a decision is made which has not previously been agreed through another decision i.e... not simply exercising administrative actions/ decisions (without the exercise of discretion) and not in relation to employment matters.

## **14.0 ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **14.1 Financial management**

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

### **14.2 Contracts**

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

### **14.3 Legal proceedings**

The Director Legal & Governance is, within budgetary provision and the policy framework, authorised to institute, defend, or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director Legal & Governance considers that such action is necessary to protect the Council's interests.

The Chief Executive has authority to authorise employees to appear in Court on behalf of the Council.

### **14.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive, Director Legal & Governance or other person authorised by the Chief Executive, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person. (Note: Council has given this authority to the Corporate Director Finance and Resources in relation to debt recovery matters other than complex cases requiring legal input).

Any contract with a value exceeding £1,000, entered into on behalf of the Council shall be made in writing. Subject to the Contract Procedure Rules, where such contract exceeds £25,000 in value it must be signed by at least two officers of the Council, one of whom must be a member of the Corporate Leadership Team or made under common seal of the Council attested by at least one officer. Where the contract is less than or equal to £25,000 in value it can be signed by one officer, with requisite authority, or made under common seal of the Council attested by at least one officer.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- (i) The Chief Executive;
- (ii) The Director Legal & Governance;
- (iii) Any member of Corporate Leadership Team concerned with the matter to which the document relates; or

Any officer authorised in writing by such Chief Officer.

#### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The common seal of the Council shall be affixed to a document only on the authority of:-

- (a) a resolution of the Council or Cabinet;
- (b) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
- (c) a decision by the Council, or by a Committee, Sub-Committee, Cabinet or Cabinet Member or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Monitoring Officer or other person authorised by the Chief Executive.

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made and consecutively numbered in a register provided for the purpose by the person attesting the affixing of the Common Seal.

## **15.0 ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION**

### **15.1 Duty to monitor and review the constitution**

The Monitoring Officer will monitor the operation and effectiveness of the Constitution and review it at least annually to ensure that the aims and principles of the Constitution are given full effect and that the content is up to date.

In undertaking this task the Monitoring Officer may:

- (i) observe meetings of different parts of the member and officer structure;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him/her by Councillors, officers, the public and other relevant stakeholders; and
- (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **15.2 Changes to the Constitution**

#### **(a) Approval**

Subject to (c) below changes to the constitution will only be approved by the Council and changes will only be approved after consideration of the proposals by the Chief Executive and the Monitoring Officer (and the Corporate Director Finance and Resources if the change impacts on his/her responsibilities) except that:

- (i) the Leader of the Council may, at any time, amend the areas of responsibility delegated to members of the Cabinet.
- (ii) the Chief Executive may, at any time, amend the responsibilities of the Corporate Leadership Team.

subject to the Leader of the Council and/or the Chief Executive notifying the Monitoring Officer of the changes approved in order that the Constitution of the Council may be amended accordingly.

#### **(b) Change in the form of Governance**

The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change the form of its executive governance arrangements.

(c) Interpretation and Consequential Changes

In the event of any issue arising as to the interpretation of the Constitution the matter will be referred to the Chief Executive whose decision in that regard shall be final. The Chief Executive, in consultation with the Monitoring Officer, shall also be authorised to make minor changes to the Constitution designed to reflect legislative changes; to remove any inconsistency or ambiguity and/or give effect to any decisions of the Council. The Chief Executive in consultation with the Monitoring Officer and the Corporate Director Finance and Resources shall also produce guidance and/or protocols to assist in the interpretation of the Constitution.

## **16.0 ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **16.1 Suspension of the Constitution**

- (a) **Limit to suspension** - The Articles of this Constitution may not be suspended. The Rules of Procedure relating to meetings of the Council, the Cabinet, Committees and Sub-committees may be suspended by the Council, the Cabinet, Committees and any Sub-committees to the extent permitted within the Council Procedure Rules and the Cabinet Procedure Rules included in Part 4 and by the law.
- (b) **Procedure to suspend** - A motion to suspend any such rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **16.2 Interpretation**

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

### **16.3 Publication**

- (a) The Monitoring Officer will make available a copy of this Constitution to each councillor upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies of this Constitution are available for inspection at the Council's offices, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee to be determined by the Monitoring Officer.
- (c) The Monitoring Officer will ensure that the Constitution is made available on the Council's website ([www.sstaffs.gov.uk](http://www.sstaffs.gov.uk)).

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

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;
2. Article 7 The Cabinet and the Cabinet Procedure Rules;
3. Article 11 (Joint arrangements)
4. Article 13 (Decision making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions).



**PART 3**  
**RESPONSIBILITY FOR FUNCTIONS**

INDEX TO PART 3

RESPONSIBILITY FOR FUNCTIONS

Section

1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

2 RESPONSIBILITY FOR COUNCIL FUNCTIONS

Council	Independent Remuneration Panel
Planning Committee	Complaints Panel
Licensing and Regulatory Committee	Personal Development Review Panel
Standards and Resources Committee	Investigatory and Disciplinary Committee
Audit & Risk Committee	Disciplinary and Grievance Appeals Committee
Overview and Scrutiny Committee	Wellbeing Select Committee
Housing Review Panel	Challenge Panels
Lottery Advisory Panel	Asset Scrutiny Panel

3 RESPONSIBILITY FOR CABINET FUNCTIONS

Cabinet  
Leader of the Council  
Cabinet Members

Note: The functions and responsibilities shall be construed with reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and all subsequent amendments to the Regulations (referred to as the Functions Regulations)

**PART 3 – Section 1 - Responsibility for Local Choice Functions**

Function	Decision Making Body	Delegation of Functions
Appeals against disciplinary action against all staff below Chief Executive and appeals in respect of grievances of for all staff below Chief Executive	Disciplinary and Grievance Appeals Committee	Officers as set out in Part 3
Functions relating to contaminated land under the Environmental Protection Act 1990	Licensing and Regulatory Committee	Officers as set out in Part 3
Functions relating to the control of pollution or the management of air quality	Licensing and Regulatory Committee	Officers as set out in Part 3
Service of an abatement notice in respect of a statutory nuisance	Licensing and Regulatory Committee	Officers as set out in Part 3
Passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area	Licensing and Regulatory Committee	None
Inspection of the Authority's area to detect statutory nuisances	Licensing and Regulatory Committee	Officers as set out in Part 3
Investigation of complaints as to the existence of statutory nuisances	Licensing and Regulatory Committee	Officers as set out in Part 3
Obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Cabinet	Officers as set out in Part 3
Obtaining of information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to interests in land	Cabinet	Officers as set out in Part 3
Appointments to Outside Bodies in relation to Executive functions and revocation of such appointments	Cabinet	Leader of the Council
The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.	Cabinet	Officers as set out in Part 3

**PART 3 – Section 2 – Responsibility for Council Functions**

Council/ Committee/Panel	Functions	Delegation of Functions
Council	Making and amending Standing Orders, Contract Procedure Rules and Financial Procedure Rules.	None
	Appointment of Staff	Appointment of Chief Executive is reserved to full Council. Appointment of other staff – delegated to Appointments Panel/officers as set out in Part 3.
	Designation of officers as the Monitoring Officer and Section 151 Officer	None
	Determining the scheme for councillors allowances	None
	Decisions on delegation of non-executive functions to other local authorities	None
	Making appointments to outside bodies in relation to non-Executive functions	None
Planning Committee	Functions relating to town and country planning and development control as specified in Schedule 1 Part A to the Functions Regulations.	Officers as set out in Part 3
	Imposing such conditions, limitations, restrictions or other terms as it considers appropriate on any approval, consent, licence, permission or registration granted in the exercise of the functions set out above.	Officers as set out in Part 3
	In respect of the functions set out above, determining whether and in what manner to enforce any failure to comply with any approval, consent, licence, permission or registration granted by the Committee (or by an officer acting under delegated powers) or any failure to comply with a condition, limitation or terms to which any such approval, consent, licence, permission or registration is subject	Officers as set out in Part 3
	Powers relating to the protection of important hedgerows and the preservation of trees	Officers as set out in Part 3

	Functions relating to high hedges under the Anti-social Behaviour Act 2003	Officers as set out in Part 3
	Functions relating to public rights of way – Part D Functions Regulations	Confirmation of unopposed orders – Director Legal and Governance
	Local List of Building of Architectural or Historical Interest	None
<b>Council/ Committee/Panel</b>	<b>Functions</b>	<b>Delegation of Functions</b>
Standards and Resources Committee		
	Responsible for making appointments to all posts below Chief Executive which are not within the remit of the Appointments Panel, including deciding the salary and the terms and conditions of employment of such.	Chief Executive and officers in Part 3
	Determining the terms and conditions of employment of employees including procedures for dismissal and approving revised structures within a service for which budget provision has been made but which fall outside officer delegations, provided that any restructuring across service areas shall be referred to Council for approval.	Officers as set out in Part 3
	Flexible retirement	Chief Executive/Assistant Director Organisation and People Development
	Functions relating to Local Government Pensions etc., for all employees under Regulations made under Sections 7, 12 or 24 of the Superannuation Act 1972.	Chief Finance Officer
	Receive report from Independent Remuneration Panel	None
	Pensions	Chief Executive/Assistant Director Organisation and People Development
	Power to make payments or provide other remedy maladministration	Chief Executive in consultation with Chief Finance Officer
	Authorisation of Officers	Chief Executive and Director Legal and Governance
	Proper Officer appointment	Chief Executive
	Functions relating to elections and parishes – Functions Regulations	Chief Executive
	Power to pay appropriate expenses duly incurred by the Returning Officer in the organisation of all elections, polls, referenda in accordance with nationally	Chief Executive

determined fees and charges or in accordance with rates of pay agreed by Staffordshire County Council	
To promote and maintain high standards of conduct by Councillors (including Parish Councillors)	
To advise the Council and the Parish Councils on the adoption or revision of their Code of Conduct	
To advise the Council and the Parish Councils on the operation of the Code of Conduct	Monitoring Officer
To monitor that such Codes of Conduct have been adopted by the Council and the Parish Councils and that Members of the Councils concerned have signed to accept the provisions of the relevant Code	Monitoring Officer
To ensure that arrangements are made for advice to be available to assist members to comply with the adopted Codes of Conduct	Monitoring Officer
To ensure that arrangements are put in place for keeping and updating the Registers of Members' Interests for the Council and for the Parish Councils	Monitoring Officer
Advising on training for Councillors, Parish Councillors and co-opted members on matters relating to the Code of Conduct	Monitoring Officer
Functions relating to standards of conduct of councillors under any relevant statutory provision	
To consider and determine allegations the Councillors, including Parish Councillors have breached the Code of Conduct of the relevant authority in accordance with the arrangements approved by the principal Council	Standards (Hearings) Sub-Committee Standards (Assessment) Sub-Committee Monitoring Officer for initial assessment of complaints
The determination of applications from South Staffordshire District Councillors for dispensations in accordance with statutory provision	To Monitoring Officer as set out in Part 3
The Council's formal complaints procedure	Delegations to officers as set out in Part 3
To be the Standards Committee for the Parish Councils in the District of South Staffordshire	

Council/ Committee/Panel	Functions	Delegation of Functions
Licensing and Regulatory Committee/ Licensing Sub-Committee	Functions relating to the licensing and registration of taxis, gaming, entertainment, food, licensing activities under the Licensing Act 2003, and miscellaneous matters as set out in Part B of Schedule 1 to the Functions Regulations	Officers as set out in Part 3 Licensing Act 2003 – see Appendix A Gambling Act 2005 – see Appendix B
	Hackney Carriage and Private Hire Licensing Policy	None
	Functions relating to health and safety under any “relevant statutory provisions” within the meaning of Part I of the Health and Safety at Work etc., Act 1974, to the extent that these functions are discharged otherwise than in the Council’s capacity as employer.	Officers as set out in Part 3
	Health Act 2006 functions	Officers as set out in Part 3
	Determining the amount of any charge to be made for any approval, consent, licence, permit or registration within the terms of reference of the Committee.	Officers as set out in Part 3
	In relation to the functions set out above, determining whether and in what manner to enforce any failure to comply with any approval, licence, permission or registration granted by the Committee (or an officer acting under delegated powers) or any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.	Officers as set out in Part 3
	To carry out all functions within Schedule 1 to the Functions Regulations if not specified elsewhere in the Constitution	None
	To exercise the powers and duties of the Council pursuant to the Clean Neighbourhoods and Environment Act 2005 or subsequent legislation which may not be the responsibility of a Member of the Cabinet including the institution of legal proceedings	Officers as set out in Part 3
	Power to make, amend or revoke byelaws	None
	Power to promote or oppose local or personal Bills	None
To monitor and to advise the Council on its Regulation of Investigatory Powers Act (RIPA) Policy	None	
Council/ Committee/Panel	Functions	
Overview and Scrutiny Committee	As set out in Part 2 Article 6 of the Constitution	

Wellbeing Select Committee	To make reports and/or recommendations to the Overview and Scrutiny Committee.
	To carry out the work programme for the Select Committee as agreed by the Overview and Scrutiny Committee.
	To review and/or scrutinise decisions made or actions taken in connections with the discharge of any of the Council's functions within the terms of reference of the Select Committee (including those resulting from partnership arrangements).
	To make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any function within the terms of reference of the Select Committee.
	To consider any matter affecting the area or its inhabitants referred to it by the Overview and Scrutiny Committee.
	To discharge the Council's responsibilities under the Health and Social Care Act 2011 and the National Health Service Act 2006 (or subsequent legislation) in accordance with the agreement between Staffordshire County Council and South Staffordshire Council (including the scrutiny of proposals for and by health service organisations and for the promotion of health and wellbeing activities in the district).
	To discharge the duties of the Council's Crime and Disorder Committee in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations (or subsequent legislation).
Audit & Risk Committee	<b>Audit Activity:</b> to consider internal and external audit plans and make recommendations thereon; to receive the Internal Audit Charter; to consider any reports relating to the management or arrangements for the provision of the internal audit service and make recommendations thereon; to comment on the scope and depth of internal and external audit work and to ensure it gives value for money; to consider a quarterly summary of internal audit work, recommendations made and performance and make recommendations thereon; to consider the annual internal audit report and opinion and a summary of audit activity and the level of assurance it can give over the Council's corporate governance arrangements and make recommendations thereon; to consider external audit reports and make recommendations thereon; to approve arrangements for appointment of the Council's External Auditor; to commission work from internal and external audit; to monitor the effectiveness of the control environment including the arrangements for ensuring value for money and for managing the authority's exposure to the risks of fraud and corruption. In respect of this, to consider the external audit opinion on value for money, to review the authority's fraud risk profile; to review the annual counter fraud plan of activity; and to monitor performance of the counter-fraud function.
	<b>Regulatory Framework:</b> to maintain an overview of the Council's Constitution in respect of contract procedures, financial regulations and to review the adequacy of policies and practices to comply with statutory requirements and guidance; to review the Council's Annual Governance Statement and to bring any matters to concern to the attention of the Council; to review any issues referred to it by the Chief Executive, Chief Finance Officer, Monitoring Officer in connection with their statutory duties or by any other Council body; to monitor the effective development and operation of risk management and corporate governance and make recommendations thereon; to review and recommend appropriate development of policies on raising concerns at work and the anti-fraud and anti-corruption strategy; to monitor and advise the Council on its Confidential Report Code "Whistleblowing Policy"; to consider the Council's compliance with its own and other published standards and controls including its corporate governance arrangements; duty to make arrangements for proper administration of financial affairs etc as required by Section 151 Local Government Act 1972 (or subsequent legislation); duty to approved authority's statement of accounts, income and expenditure and balance sheet or record of payments and receipts (as the case may be) as required by the Accounts and Audit Regulations.
	<b>Accounts:</b> to review the annual statement of accounts – specifically to consider whether appropriate accounting policies have been followed

	and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council; to consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
<b>Council/ Committee/Panel</b>	<b>Functions</b>
Complaints Panel	To hear and determine complaints against the authority in accordance with the Council's complaints procedure.
Independent Remuneration Panel	To recommend annually to the Standards and Resources Committee a scheme for the payment of allowances to members of South Staffordshire Council and to constituent Parish Councils.
Lottery Advisory Panel	To advise the Leader of the Council in respect of the administration of revenue from the general fund of the South Staffordshire Community Lottery.
Housing Review Panel	To consider and make recommendations to the Cabinet Member (Welfare Services) on the determination of any review of a decision taken by the Local Authority concerning: a) whether a person is eligible for assistance under Part VII Housing Act 1996 as amended by the Homelessness Act 2002 (or subsequent legislation) b) any decision of a housing authority as to what duty is owed (if any) to an applicant, under the homelessness legislation. Whether the case should be referred to another authority for consideration and if the conditions of referral have been met c) any decision as to the suitability of accommodation offered to the applicant under the homelessness legislation d) any decision as to ineligibility to be included on the Housing Register To review decisions to refuse, suspend, or cancel membership of the Property Accreditation Scheme or Private Landlord Accreditation Scheme
Personal Development Review and Appointments Panel	To carry out the personal development reviews of the Chief Executive and Corporate Directors on a yearly basis. To make recommendations to Council as to the appointment of the Chief Executive, Monitoring Officer and Officer holding the post as section 151 officer and to make appointments in so far as the Head of Paid Service is not authorised to do so by virtue of the Local Authorities (Standing Orders) (England) Regulations 2001
Investigatory and Disciplinary Committee	To investigate and make a determination on any disciplinary action (including dismissal) against any member of the Council's Corporate Leadership Team; excluding decisions on dismissal regarding the Chief Executive, Monitoring Officer and the Section 151 Officer.
<b>Council/ Committee/Panel</b>	<b>Functions</b>
Disciplinary and Grievance Appeals	To consider appeals against dismissals and grievances by employees of the Council.



Committee	
<p>Council Challenge Panels</p> <ul style="list-style-type: none"> <li>(a) Your Council</li> <li>(b) Your Place</li> <li>(c) Your Community</li> </ul>	<p>To carry out informal reviews of services/functions. These are informal working groups and have no decision-making power and no formal role in the Council’s governance arrangements although their work may inform the actions of Cabinet or the consideration of matters by the Overview and Scrutiny Committee and the Wellbeing Select Committee.</p>

## Appendix A

**Licensing Act 2003** – all functions under the Act and subsequent legislation – excluding those matters which fall within the authority of the Cabinet or any member thereof

Function	Delegation to Sub-Committee	Delegation to Officers
Determination of the following in accordance with the Council's Licensing Policy:		
Application for Personal Licence	If a police objection received	If no objection made
Application for Personal Licence with unspent convictions	All cases	
Minor variation to a premises/club licence		All cases
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate (other than minor variation)	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection received	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection received	All other cases
Application for interim authorities	If a police objection received	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether an application, representation or complaint is irrelevant, frivolous or vexatious etc		All cases
Decision to make representations when the local authority is a consultee and not the relevant authority considering the application	All cases	
Responding to a temporary event notice		All cases
Determination of a police objection to a temporary event notice	All cases	
To make representations on applications received by the Council pursuant to the Licensing Act 2003 (or subsequent legislation)		All cases

## Appendix B

### Gambling Act 2005

Function	Delegation to Sub-Committee	Delegation to Officers
All functions excluding the passing of a "no casinos" resolution and the production of the three year gambling policy		
Making recommendations to Council regarding the adoption of (1) a "no casinos" resolution or (2) the approval/adoption of the three year gambling policy		
Determination of an application for a premises licence in respect of which representations have been made under s161 (and not withdrawn)	All cases	
Determination of an application for the variation of a premises licence in respect of which representations have been made under s161 as applied by s187 (and not withdrawn)	All cases	
Determination of an application to transfer following representations by the Gambling Commission	All cases	
Determination of an application for a provisional statement under s204 in respect of which representations have been made under s161 as applied by s204 (and not withdrawn)	All cases	
A review of a premises licence under s201	All cases	

**Part 3 – Section 3 – Responsibility for Cabinet Functions**

Who is responsible	Functions	Delegation of Functions
Cabinet	The preparation of the policy framework and budget and the implementation of these in respect of Council functions and services not otherwise the responsibility of full Council.	Delegation to officers set out at Part 3 Delegation to individual Members of the Cabinet as set out below.
	Determination of recommendations and reports from members of the Cabinet not in accordance with their delegations.	
	The approval of a) Local Development documents that comprise the Local Development Framework and b) supplementary planning documents for submission to Council	
	Determination of recommendations from the Overview and Scrutiny Committee where the recommendation of that Committee is not accepted by the relevant Cabinet Member.	
	Response to inspection reports from the External Auditor	
Leader of the Council	Functions undertaken as agents for or on behalf of other authorities or organisations	
	Making appointments to outside bodies (other than those reserved to Council)	
	Determination of applications for a ban on organised marches in the District	
	Consideration of matters arising from a “Community Call for Action” under the Police & Justice Act 2006 requesting/requiring action by the Council	
	Preparation of the Council Plan	
	Relationships with external organisations	
	Locality Working (including Community Development, Health & Wellbeing activities and priorities; Energy conservation and 3 <sup>rd</sup> Sector commissioning and delivery)	Chief Executive
	The determination of applications for financial assistance from voluntary bodies, individuals and other organisations.	Assistant Director Community Services as set out in Part 3
The management of all Council owned land and property not delegated to/within the portfolios of another Cabinet Member.	Corporate Director Communities and Wellbeing as set out in Part 3	

	Part 5 of the Localism Act 2011	Director Legal and Governance as set out in Part 3
	To appoint any member of the Council to the Cabinet on a temporary basis with responsibility for any identified area of duties of Cabinet members if no member of the Cabinet would be able to act in the matter due to a Disclosable Pecuniary Interest, subject to such a temporary appointment not increasing the size of the Cabinet to more than 10 members, including the Leader and Deputy Leader of the Council.	
Relevant Cabinet Member or Leader of the Council	After consultation with the appropriate officers to make any decisions within their areas of service responsibilities listed below which are not already delegated to an officer, a key decision or a non-executive decision and to monitor budget compliance and overall performance in those areas.	All decisions must be in accordance with the Cabinet Procedure Rules, Financial Regulations and the Contract Procedure Rules

### Part 3 – Section 3 – Cabinet Responsibilities

Councillor	Role	Key Corporate Priority responsibility	Service Responsibilities
Roger Lees	Leader	Overall strategic direction of the Council, External partnerships / agencies, Voluntary Sector, Liaison with County Council and Government, the Council Plan, the Constitution, Asset Strategy, MTFS	Oversees work of the Chief Executive, Human Resources, Policy and Performance, Finance and Accountancy, Procurement and Legal Services. Estates and Assets (including commercial property, industrial units, Hinksford Park Mobile Home Park)
Rita Heseltine	Deputy Leader	Regulatory Services	Oversees the work of licensing, food safety, environmental health, pest control, environmental crime and community safety (including anti-social behaviour and CCTV)
Terry Mason	Cabinet Member	Planning and Business Enterprise: Strategic health and Health & Safety Local Plan	Oversees the work strategic housing, development management (executive functions only), local plans, building control and Land Charges, enterprise and growth, transport, highways and rural accessibility, conservation and design and landscape planning, health and safety (executive functions only), planning enforcement (executive functions only)
David Williams	Cabinet Member	Business Transformation: Digital Strategy and Agile Working Localities+	Oversees the work of ICT, Business Improvement Team, programme and project management/transformation programme and internal audit
Robert Reade	Cabinet Member	Welfare Services: Building Better Opportunities, Work Clubs	Oversees the work of housing operations and homelessness, Council Tax, revenues and benefits including debt recovery, customer services, welfare support, safeguarding and Disabled Facilities Grants Customer Services
Len Bates	Cabinet Member	Community Services: Emergency Planning and Business Continuity, Climate Change	Oversees the work of waste and street scene, drainage systems, flood protection, leisure, street lighting, grounds maintenance, bereavement services, street cleansing, energy saving and the local environment, Council Office management to include catering services, countryside management; public open spaces
Victoria Wilson	Assistant Cabinet Member	Planning	Assists the Cabinet Member Planning and Business Enterprise in respect of strategic housing, development management (executive functions only), local plans and planning enforcement (executive functions only).

# **SCHEME OF DELEGATIONS TO OFFICERS**

## **Powers Delegated to Officers**

1. The functions, powers and duties in this scheme are delegated to Officers as shown in the attached schedule. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions. This scheme operates under Sections 101, 111, 151 and 270 of the Local Government Act 1972 and all other enabling powers of the Council and should be read in conjunction with any scheme of delegation to elected member bodies approved by the Council from time to time.
2. When functions are delegated to an Officer, the Council or the elected member body to which it has delegated those functions will retain concurrent powers where this is legally permissible. For the avoidance of doubt, where an officer has delegated a function to another officer, any officer of a higher rank, where qualified, within the structure can exercise that function. A function delegated to an officer may be passed back by that officer to the person (including another officer), committee or body giving the delegated power to the officer.
3. The Chief Executive shall have the responsibility to ensure that the Council's policies, practices and procedures are carried out in a corporate, consistent and coordinated manner.
4. Subject to Paragraphs 5 and 6, the Chief Executive and Corporate Leadership Team shall have the following general responsibilities, powers and duties and where functions reside by law with the Chief Executive as Head of Paid Service the Chief Executive authorises the Corporate Leadership Team to carry out these functions on behalf of the Head of Paid Service:-
  - (a) To implement and act within the approved policies, plans, practices and procedures of the Council including service of statutory notices in accordance with approved policies, plans, practices and procedures and making planning applications to implement approved policies and plans.
  - (b) To delegate further, in writing, all or any of their delegated functions to other Officers with the written agreement of the Chief Executive.
  - (c) In exercising delegated powers, to consult with such other Officers as appropriate and to have regard to any advice given and in particular to seek appropriate advice in relation to a professional judgement required in any area in which he/she is not professionally qualified.
  - (d) To advise on policy development and formulation.
  - (e) To act in accordance with the Rules of Procedure and any arrangements approved in pursuance of them.
  - (f) To carry out any functions assigned in pursuance of the Rules of Procedure and any approved policies, plans, practices and procedures of the Council.
  - (g) To appoint, discipline, suspend or dismiss any employee below Corporate Director level who is employed in the delivery of services for which he/she is responsible, within the guidance issued by Chief Executive/ Assistant Director Organisation and People Development.

- (h) To be responsible for the performance of those employees carrying out the functions for which he/she is responsible.
- (i) In consultation with the Assistant Director Organisation and People Development, to make changes to the establishment of a service area for which he/she is responsible subject to financial provision for the current and future years being available and the changes not amounting to a significant change to the structure across service areas.
- (j) In accordance with guidance issued by the Chief Executive/Assistant Director Organisation and People Development to approve the grading of new posts for which financial provision has been made by the Cabinet and the regrading of existing posts.
- (k) In consultation with the Assistant Director Organisation and People Development, to approve the temporary appointment of staff to cover absences of employees due to illness, maternity or other long term absence provided that the period of temporary employment does not exceed twelve months and the cost of doing so can be contained within existing service budgets.
- (l) To authorise the acquisition of equipment or services necessary for the day to day performance of the Council's business or fulfilment of any matter authorised by the Council or elected member body for which a budget has been approved.
- (m) To manage any physical assets, including land and buildings (except for the acquisition, appropriation or disposal of land and buildings), IT, vehicles and equipment generally, allocated to the service for which he/she is responsible.
- (n) To enter into any arrangements, contractual, partnership, or otherwise with any other body for the carrying out of the functions of either body.
- (o) When any Director/Assistant Director is unable to act or is absent, the powers delegated to him/her under this Scheme of Delegation or otherwise shall be exercised by the Chief Executive or the member of Corporate Leadership Team who is their line manager (except where that person is unable to exercise the function due to qualification or legislative requirements)
- (p) To keep the relevant Councillor(s) informed as appropriate of matters affecting their wards.

5. The following functions are not delegated to any Officer:

- (a) any matters which the Council or an elected member body to which functions have been delegated has resolved shall be determined by itself
- (b) any function which by law may not be delegated to an Officer
- (c) the adoption of new policy or significant variations to existing policies
- (d) the appointment, terms and conditions, discipline, suspension or dismissal of the Chief Executive
- (e) the appointment, suspension or dismissal of the section 151 Officer or the Monitoring Officer.
- (f) any matter involving finance which cannot be met from within the Approved Budget;

- (g) any matter which the Chief Executive, Corporate Director, Director or Assistant Director concerned considers inappropriate to be dealt with under delegated powers or in which the Officer concerned has an interest.
  - (h) any matter which constitutes a Key Decision within Article 13.3(b) of the Constitution.
6. Where it is a legally permissible an Officer may decide not to exercise any function in relation to a particular matter and to invite the Council, or the appropriate elected member body as appropriate to do so instead. It is open to an Officer to consult with appropriate Councillors on the exercise of delegated powers or in deciding whether or not to exercise such powers.
  7. Where functions are delegated by officers, this must be in writing and a copy of the scheme of delegation must be deposited with the Director Legal and Governance. This internal scheme of delegation must be regularly reviewed and updated.
  8. The Monitoring Officer is authorised to make any minor variations to this scheme of delegation to Officers at any time as needs and circumstances change; and shall be the final arbiter in relation to the interpretation and application of the scheme.
  9. The delegations below are in addition to any delegations contained elsewhere within the Constitution.
  10. The Assistant Directors have authority to set the fees and charges for matters within their respective areas unless otherwise reserved to another body.
  11. The Assistant Directors have authority to appoint, discipline, suspend or dismiss any employee below Director/Assistant Director/Corporate Support Manager level who is employed in the delivery of services for which he/she is responsible, within the guidance issued by Chief Executive/ Assistant Director Organisation and People Development.

## **SCHEDULE TO THE SCHEME OF DELEGATION TO OFFICERS**

### **CHIEF EXECUTIVE**



1. To be Head of the Paid Service.
2. To be the Electoral Registration Officer and Returning Officer for Elections.
3. Within the overall resources allocated by the Council and in direct support of the Council's objectives, to act on behalf of the Council on all matters including specifically policy and partnerships and HR and including those which have been delegated to any other Officer  
**PROVIDED THAT**
  - 3.1 the Chief Executive may not exercise a power which is reserved by statute to another Officer;
  - 3.2 before exercising the power of another Officer, the Chief Executive shall consult with that Officer if available;
  - 3.3 the Chief Executive when exercising any powers may authorise the incurring of expenditure in an emergency even if there is no specific provision in the budget of the Council.
4. In consultation with the Leader of the Council, the relevant Cabinet Member or the Chairman of the relevant Committee as appropriate, to authorise any urgent action when it would be in the best interests of the Council to act prior to the appropriate Council or Committee meeting, or prior to an executive decision being made; subject to such action being reported to the next Council/Cabinet/Committee meeting.
5. To keep under constant review the needs of the District and its community in relation to all those services provided by the Council and to take all such action which in his/her judgement is necessary to ensure that those needs are met within the framework of any policies agreed by the Council.
6. To make arrangements for dealing with any matter raised by the Government or local authority association calling for a view or decision by the Council.
7. To be responsible for the overall organisational structure of the Council and to determine job titles.
8. To be responsible via the Assistant Director Organisation and People Development for determining and issuing guidance to Officers for the management of human resources, including recruitment, training, conditions of service, staff development/appraisal, disciplinary matters, health and safety, employee welfare and any other matter concerning staff.
9. To ensure the provision of professional advice to all parties in the decision-making process.
10. Together with the Monitoring Officer to be responsible for a system of record keeping for all local authority decisions.
11. To represent the Council on partnership and other bodies.
12. To be responsible for the health and safety of all employees of the Council.
13. To sign any document on behalf of the Council and to witness affixation of the Council's Common Seal to any document.
14. The appointment of independent persons to serve on complaints panels.

15. To exercise functions and powers relating to anti-social behaviour under the Anti-social Behaviour, Crime and Policing Act 2014.

### **CORPORATE DIRECTOR INFRASTRUCTURE AND BUSINESS GROWTH**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to property and assets, major development and investment projects. Also all functions within the remit of the Assistant Director Enterprise and Growth.

#### **Development Management Functions**

2. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to planning, development management, tree preservation, high hedges, conservation, street naming and numbering, grants for the repair of historic building and areas, protection of hedgerows, local list of buildings of Architectural or Historical Interest, major planning infrastructure sites, completion of the current SAD. For the avoidance of doubt this does not confer authority on the Corporate Director Infrastructure and Business Growth to reply to a consultation undertaken in respect of a possible Development Consent Order under the Planning Act 2008
3. To authorise the issue of Stop Notices, Temporary Stop Notices, Enforcement Notices, Listed Building Enforcement Notices and Breach of Condition Notices under the relevant Town and Country Planning legislation.
4. Determination as to the expediency of initiating enforcement proceedings, including the authorisation or an Enforcement Notice, Breach of Condition Notice, to require maintenance of untidy land/buildings, Stop Notice, Temporary Stop Notice, Listed Building Enforcement Notice, and Conservation Area Enforcement Notice; subject to consultation/notification provisions set out in internal scheme of delegation.
5. The making of Directions under Article 4 of the Town and Country Planning (General Permitted Development Order) or subsequent legislation.
6. To approve direct action pursuant to Section 219 Town and Country Planning Act 1990 or subsequent legislation.
7. The making of Discontinuance, Revocation and Modification orders subject to the completion of a covenant not to claim compensation in respect of the Orders.
8. To carry out or instruct an appropriate contractor to carry out works comprising direct action authorised pursuant to Section 219 of the Town and Country Planning Act 1990 or subsequent legislation; and to take action to recover costs incurred.
9. Power to execute urgent works pursuant to Section 54 Planning (Listed Buildings and Conservation Areas) Act 1990 or subsequent legislation to preserve an unoccupied Listed Building and to recover expenses.

10. To comment on behalf of the Council on County Council determinations on applications to divert/extinguish public rights of way, after consultation with the appropriate ward member(s) electronically through the Council's e-mail system.
11. To determine planning applications in accordance with the scheme of delegation of planning decisions set out in Appendix A attached.
12. Subject to prior consultation with all relevant ward councillors, to authorise the issue of notices under Section 215 of the Town and Country Planning Act 1990
13. To authorise any urgent action necessary to preserve any building which he considers important and which appears to be in danger of alteration or demolition or collapse, pending a report to the next available meeting of the Planning Committee.
14. To authorise any action necessary in respect of works to dangerous trees under Section 23 the Local Government (Miscellaneous Provisions) Act 1976, and associated powers and functions.
15. To make representations on Licensing Act 2003 applications as the local planning authority.
16. To determine commuted sums for Section 106 agreements.
17. To determine applications for Neighbourhood Plan status for whole parish areas.

## **APPENDIX A**

### **SCHEME OF DELEGATION OF PLANNING DECISIONS**

1. The powers delegated shall only be exercised after ensuring that all statutory requirements have been complied with and after considering all representations received.
2. The powers delegated shall be:-
  - 2.1 To determine applications for planning permission and applications for reserved matters (including those applications which do not meet the Council's Space About Dwellings Standards).
  - 2.2 To determine approvals and consents pursuant to any condition imposed on a planning consent and applications to modify or discharge planning obligations, including those imposed in relation to applications made under the Development Consent Order for the West Midlands Interchange.
  - 2.3 To decline to determine an application for planning permission.
  - 2.4 To determine whether prior approval is required (under any relevant part of the General Permitted Development Order).
  - 2.5 To determine approvals to and agreements to certain other matters relating to the exercise of permitted development rights as defined in the General Permitted Development Order.
  - 2.6 Determination of consent for the display of advertisements.
  - 2.7 Determination of applications for a certificate of existing or proposed lawful use or development; for listed building consent and related powers; for conservation area consent and for hazardous substances consent and related powers; Permission in Principle; Demolition Consent Orders;

Certificates of Appropriate Alternative Consents or applications to modify or discharge planning obligations, non-material amendments and minor material amendments.

- 2.8 Determination of applications to fell or carry out works to trees protected by a tree preservation order or trees within conversation areas.
- 2.9 Determination of complaints under Part 8 of the Anti-Social Behaviour Act 2003 (high hedges) or subsequent legislation.
- 2.10 Determination of applications for garages in a domestic curtilage in the Green Belt or Open Countryside.
- 2.11 To determine, following consultation with the Chairman of the Planning Committee, approvals/consents and approval of guarantees/security for compensation under Part 5 of the Order, in relation to applications made under the Development Consent Order for the West Midlands Interchange. If a Councillor wishes an application made under the Development Consent Order for WMI to be determined by Planning Committee, they shall notify the Corporate Director Infrastructure and Business Growth and the Assistant Team Manager for Strategic Projects within 5 days of being notified of the proposal.
- 2.12 Applications for Lawful Development Certificates which are called-in will not be determined by Planning Committee but will be determined by the Corporate Director Infrastructure and Business Growth.

**3. PROVIDED THAT** any decision:-

- 3.1 shall not approve any application which does not comply with the Council's Space About Dwellings Standards (SAD) or is a disproportionate extension to a building within the Green Belt or Open Countryside, or is for a replacement dwelling(s) in the Green Belt and Open Countryside, where the proposed new building(s) is materially larger than the original, but is acceptable because of the permitted development fallback position, (this does not apply to applications in relation to the West Midlands Interchange Development Consent Order which are subject to separate provisions set out at point 2.11 of this Scheme of Delegation), without having first notified all councillors electronically and affording the councillors three clear working days to request that the application be referred to the Planning Committee for determination.
- 3.2 is not contrary to the policies and proposals of the Development Plan.
- 3.3 where the Council is the applicant or landowner.
- 3.4 where the applicant is a member of the Council.
- 3.5 where the applicant is a member of Development Management or Building Control or a Senior Manager (Corporate Leadership Team/Assistant Directors).
- 3.6 The limit to the delegation above shall not apply:
  - (a) in relation to the approval of matters reserved for subsequent approval by a condition on a planning permission, but excluding the design, siting, means of access or external appearance of a building.

(b) the approval of minor amendments to an approved development where the amendments would not conflict with any consultation responses previously received.

4. The delegations in paragraph 2.1 and 2.2 above shall not operate if any Member has notified the Corporate Director Infrastructure and Business Growth of his wish to speak during the consideration of an application in respect of a material objection of a planning nature.
5. To refuse to determine applications submitted in accordance with, and subject to the limitations of, Section 17 of the Planning and Compensation Act 1991.
6. To issue planning contravention notices and, where appropriate, give audience to the recipient(s) of any such notice.
7. To determine all applications for prior approval of the Council as local planning authority for any relevant categories of permitted development in accordance with, and subject to the limitations of, the Town and Country Planning (General Permitted Development) Order 1995 as amended.
8. To determine responses to consultations with the Council as Local Planning Authority of and by other local authorities and statutory bodies, subject to consultation with the ward members. For the avoidance of doubt this does not confer authority on the Corporate Director Infrastructure and Business Growth to reply to a consultation undertaken in respect of a possible Development Consent Order under the Planning Act 2008.
9. The delegations shall not operate if the Corporate Director Infrastructure and Business Growth does not consider it prudent to exercise his or her delegated authority, in which case he/she shall report the matter to the Planning Committee.
10. The Corporate Director Infrastructure and Business Growth shall prepare and circulate to Members of the Council each week a list of registered applications. Any Member of the Council has 21 days in which to make representations on the application and/or request that the application is referred to the Planning Committee for determination, or in the case of applications for a certificate of existing or proposed lawful use or development referral for determination by the Corporate Director Infrastructure and Business Growth.
11. The Corporate Director Infrastructure and Business Growth may bring before the Planning Committee any application, and request that it be delegated on a 'case by case' basis for determination by him/her. Any such delegation may be subject to the receipt and resolution of specified outstanding matters, including receipt of consultees views, expiry of statutory notices and expiry of consultation periods, and on the basis that the outstanding matters referred to, when resolved, did not give rise to any new issue or objection.
12. Any actions pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or subsequent Regulations including issuing of Screening and Scoping Opinions.
13. To comment on behalf of the Council on:
  - (a) Consultations from adjoining local planning authorities
  - (b) Overhead lines
  - (c) County Council matters

(d) County Council applications, after consultation with the appropriate ward member(s) electronically through the Council's e-mail system

(e) Consultations from outside bodies relating to landscaping/arboricultural matters.

For the avoidance of doubt this does not confer authority on the Corporate Director Infrastructure and Business Growth to reply to a consultation undertaken in respect of a possible Development Consent Order under the Planning Act 2008.

14. To make minor modifications to the wording of conditions or reasons for refusal wording post committee, following consultation with the Proposer of the Motion that was contrary to the Officers Recommendation, to render them National Planning Policy Guidance compliant and include all relevant planning policies, and formalisation of the Decision Notice in the event of planning permission being granted or refused by the Planning Committee contrary to officer recommendation.

### **CORPORATE DIRECTOR FINANCE AND RESOURCES**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to financial functions unless that function has been specifically delegated to another officer including financial planning audit and fraud (including debt recovery) procurement, corporate efficiency planning, corporate risk management, performance management, policy, human resources and emergency planning and local government pensions, commercial decisions on property and assets, new acquisitions. Also all functions within the remit of the Assistant Director Business Transformation.
2. To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988 and Regulation 5 of the Accounts and Audit Regulations 2003.
3. To be responsible for the health and safety of employees.
4. To authorise employees of the Council to make determinations, notify determinations, notify determinations of overpayment, review a determination or extension of time for making representations or further review in relation to legislation relating to Housing Benefit and local Council Tax Reduction Scheme.
5. To authorise the acquisition, reuse, appropriation and disposal of the Council's land and buildings, in consultation with the Corporate Leadership Team, together with the granting or taking assignment or surrender of leases (not exceeding 5 years), tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings. For avoidance of doubt the disposal by way of sale and acquisition by way of purchase is limited to a value of up to £10,000.
6. In consultation with the Cabinet Member for Welfare Services, to make decisions on the award of national non-domestic rate discretionary relief in accordance with the Council's policy.

### **CORPORATE DIRECTOR COMMUNITIES AND WELLBEING**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to, communications, locality working, community safety, emergency planning and business continuity. Also all functions within the remit of the Assistant Director Community Services and Assistant Director Welfare Services.
2. To be responsible for the health and safety of employees.
3. To manage the Codsall Community Hub and Jubilee House property holdings.

#### **DIRECTOR LEGAL AND GOVERNANCE**

1. To be the Monitoring Officer including authority to grant dispensations under section 33 of the Localism Act 2011.
2. To be the Deputy Returning Officer and Deputy Electoral Registration Officer
3. In conjunction with the Chief Executive to be responsible for a system of record keeping for all the local authority decisions.
4. To sign any document on behalf of the Council and to witness affixation of the Council's Common Seal to any document.
5. To be responsible for the health and safety of employees.
6. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating Corporate compliance, Member support and engagement, corporate administration, legal services, democratic and member services, elections and road closures.
7. To be the Senior Responsible Officer in respect of the Regulation of Investigatory Powers Act 2000.
8. To be the Money Laundering Reporting Officer.
9. To authorise the institution, defence, withdrawal, compromise or any other action relating to claims or legal proceedings, civil or criminal (except in relation to prosecutions where the authorisation of prosecutions is expressly delegated to another Corporate Director/Assistant Director).
10. To authorise Officers of the Council to appear before Magistrates' Courts or County Courts.
11. In consultation with the Corporate Director Finance and Resources, to take such action as is considered appropriate in relation to advance payments, blight notices, home loss payments under the Land Compensation Act 1973, notices to quit, purchase notices and other notices.
12. To deal with the Local Government Ombudsman on issues of maladministration.
13. The appointment of members/independent persons to individual complaint panels in accordance with the complaints procedure.

14. To enter into/vary the terms of an agreement pursuant to Section 106 Town and Country Planning Act 1990 (or subsequent legislation) or any other planning related agreement (including Planning Performance Agreements).
15. To authorise and maintain a list of assets of community value and to make adjudication decisions in relation thereto.
16. To take the following actions in respect of non-compliance with statutory provisions, statutory notices or conditions imposed on grants, licences, permissions and similar matters:
  - i) the institution or defence of legal proceedings
  - ii) the briefing of Counsel within existing budgetary provision
  - iii) the issuing of Formal Cautions pursuant to Home Office regulations
17. Making, amending or revocation of Tree Preservation Orders provided that there are no unresolved objections from Councillors.
18. Obtaining of information under s.330 Town and Country Planning Act 1990 and s.16 Local Government (Miscellaneous Provisions) Act 1976.
19. To act as Data Protection Officer and to have overall responsibility for the Data Protection Register.
20. To issue or serve statutory notices on behalf of the Council in relation to any of its functions (including Completion Notices, Planning Contravention Notices) including the authorisation of works in default where necessary.

#### **ASSISTANT DIRECTOR – ENTERPRISE AND GROWTH**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to development management, planning policy (including Local Plans), strategic housing and employment sites, business infrastructure support and growth (includes regeneration) commercial property and assets (including Hinksford Mobile Home Park), abandoned vehicles, planning enforcement, building control and listed building enforcement, car parking enforcement, Business Insight and Building Control and Land Charges Partnership
2. To be the Registrar of Local Land Charges.

#### **ASSISTANT DIRECTOR – WELFARE SERVICES**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to revenue and welfare functions unless that function has been specifically delegated to another officer including revenue and benefits, homelessness and welfare support (including Building Better Opportunities and Work Clubs), community safety including anti-social behaviour and operation of CCTV scheme, customer services and safeguarding.
2. To manage administration of the Council's complaints system.

#### **ASSISTANT DIRECTOR – COMMUNITY SERVICES**



1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to community functions unless that function has been specifically delegated to another officer including waste and street scene, leisure and facilities management (including Council offices), Emergency Planning and Business Continuity (operational) public health, health and safety at work (including Working Time Regulations), environmental enforcement, environmental health, housing standards enforcement, Licensing Act 2003, Gambling Act 2005, hackney carriage and private hire licensing and all licensing and registration functions, scrap metal dealers, Health Act 2006 as it applies to smoke free premises etc, control of pollution, food safety and Sunday trading, stray dogs, pest control and Corporate Health & Safety community well-being.
2. To determine applications for all matters within paragraph 1 where it is not outside any existing policy save that this cannot override any limitation contained elsewhere in the Constitution.
3. In relation to the functions set out in paragraph 1, determining whether and in what manner to enforce any failure to comply with any approval, licence, permission or registration granted or any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject save that this cannot override any limitation contained elsewhere in the Constitution. For the avoidance of doubt, this includes the power to suspend private hire/taxi licences.
4. To determine applications from Friends Groups for small grants relating to environmental projects up to a maximum of £500.
5. To exercise powers and duties under the Clean Neighbourhoods and Environment Act 2005.

#### **ASSISTANT DIRECTOR – BUSINESS TRANSFORMATION**

1. Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions relating to business transformation functions unless that function has been specifically delegated to another officer including ICT, Business Improvement Team and District Data/Intelligence.



## **PART 4**

### **RULES OF PROCEDURE**

<b>Section 1</b>	<b>Standing Orders for Meetings</b>	<b>82-106</b>
<b>Section 2</b>	<b>Access to Information Procedure Rules</b>	<b>106-120</b>
<b>Section 3</b>	<b>Budget and Policy Framework Procedure Rules</b>	<b>121-126</b> <b>113-118</b>
<b>Section 4</b>	<b>Cabinet Procedure Rules</b>	<b>119-126</b>
<b>Section 5</b>	<b>Overview and Scrutiny Procedure Rules</b>	<b>127-138</b>
<b>Section 6</b>	<b>Financial Procedure Rules</b>	<b>139-205</b>
<b>Section 7</b>	<b>Contract Procedure Rules</b>	<b>206-237</b>
<b>Section 8</b>	<b>Employment Procedure Rules</b>	<b>238-243</b>

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## **1.0 ANNUAL MEETING OF THE COUNCIL**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 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:

- (i) elect a person to preside if the Chairman and Vice-Chairman of Council are not present;
- (ii) consider priority business;
- (iii) elect the Chairman of the Council;
- (iv) elect the Vice-Chairman of the Council;
- (v) approve the minutes of the last meeting;
- (vi) receive any apologies for non-attendance;
- (vii) receive any declarations of interest;
- (viii) at its first post election Annual Meeting, appoint a Leader of the Council for a term of office expiring at the next post election annual meeting (unless removed or disqualified from office in accordance with the Constitution);
- (ix) following his/her election the duly elected Leader of the Council shall assume the full powers of the Leader and will appoint a Deputy Leader of the Council who, in their absence or following a vote of no confidence (see paragraph 4.0 of this Article) will act as Leader, and advise the Council of the members he/she intends to appoint to the Cabinet;
- (x) appoint the Overview and Scrutiny Committee, the Standards and Resources Committee, the Planning Committee, the Licensing and Regulatory Committee, the Wellbeing Select Committee and the Audit & Risk Committee, together with such other committees as the Council considers appropriate to deal with matters which are not reserved to the Council and are not Cabinet functions (as set out in Part 3 of this Constitution);
- (xi) agree the scheme of delegation for those matters not reserved to the Council and are not Cabinet functions (as set out in Part 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year;
- (xiii) consider any business set out in the notice convening the meeting; and

- (xiv) receive any announcements from the Chairman.

## **1.1 Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council will:

- (i) decide which committees and sub-committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) appoint the Chairman, Vice-Chairman and members to committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## **2.0 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:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) consider priority business;
- (iii) approve the minutes of the last meeting;
- (iv) apologies for absence;
- (v) receive any declarations of interest from members;
- (vi) questions pursuant to Council Procedure Rule 11.4;
- (vii) receive and debate, in accordance with the Council's Petitions Scheme, any petition signed by at least 2,000 qualifying persons;
- (viii) receive a report from the Leader of the Council and receive questions and answers thereon in accordance with Council Procedure Rule 11;
- (ix) receive reports from the Cabinet and statutory officers and receive questions and answers on any of those reports;

- (x) receive reports from the Council's Committees and receive questions and answers on any of those reports;
- (xi) consider motions;
- (xii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate;
- (xiii) receive the Chairman's announcements.

### **3.0 ELECTION OF LEADER OF THE COUNCIL**

**3.1** The Monitoring Officer will conduct the vote for the election of the Leader of the Council in accordance with the following procedure:

- (i) each member present at the time will have one vote;
- (ii) the vote will be taken by way of a roll call and recorded in the minutes;
- (iii) the Monitoring Officer will call out the name of each nominated person in alphabetical order and invite Members to vote according to their preference; alternatively they may, if they wish, abstain;
- (iv) at the conclusion of the vote the Monitoring Officer will announce the number of votes cast for each nominated person. If anyone nominated person receives an overall majority of the votes cast (abstentions will not be counted), they will be declared the winner and be elected as the Leader of the Council;
- (v) if no one nominated person receives an overall majority of the votes cast, then the nominated person receiving the least number of votes will be eliminated;
- (vi) the Monitoring Officer will then invite further round(s) of voting as necessary in accordance with the procedures set out in paragraphs 3.1 (i) to 3.1 (v) above until one nominated person receives an overall majority, for which any abstentions will not be counted;
- (vii) any member not present at the start of the first vote (iii) will not be entitled to a vote at a later round (vi) even if they have joined the meeting by that stage.

**3.2** Paragraphs (ii) and (iii) will be waived if only one nomination is made. Voting will then be by a show of hands.

#### **4.0 VOTE OF NO CONFIDENCE IN THE LEADER OF THE COUNCIL**

- 4.1** Any motion of no confidence in the Leader of the Council must be received by the Chief Executive by no later than 10 clear working days before the meeting of the Council to which it is to be submitted. The motion must be signed by at least 15 members of the Council and must set out the reasons why the signatories have concluded that a vote of no confidence in the Leader is required.
- 4.2** The motion will be listed first on the agenda.
- 4.3** No amendments to a motion calling for a vote of no-confidence motion in the Leader of the Council will be allowed.
- 4.4** Each member present at the time will have one vote.
- 4.5** Voting will be by way of a roll call recorded in the minutes.
- 4.6** In order to carry the motion, at least two thirds overall majority of those members present will be required.
- 4.7** In the event of the motion being carried, the Deputy Leader of the Council will assume the full powers of the Leader of the Council until a new Leader of the Council is appointed by the Council.

#### **5.0 CALLING EXTRAORDINARY MEETINGS**

- 5.1** Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:
- (i) the Council by resolution;
  - (ii) the Chairman of the Council;
  - (iii) the Monitoring Officer;
  - (iv) 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 days of the presentation of the requisition.

#### **6.0 TIME AND PLACE OF MEETINGS**

- 6.1** The time and place of meetings will be determined by the Chief Executive and notified in the summons.



## **7.0 NOTICE OF AND SUMMONS TO MEETINGS**

**7.1** The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her to every councillor. 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.

## **8.0 CHAIRMAN OF MEETING**

**8.1** 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.

## **9.0 QUORUM**

**9.1** The quorum of a meeting will be one quarter of the whole number of members. See also Rule 32 (c) in relation to Committees and Sub-Committees. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, 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.

## **10.0 DURATION OF MEETING**

**10.1** Unless the majority of councillors present vote for the meeting to continue, any meeting shall stand adjourned at 10.00 o'clock in the evening provided that, if there is a quorum present and in the opinion of the Chairman the matters remaining to be considered are either of such importance that it's in the interest of the Council that the consideration thereof should then take place or that the extension of time required is minimal, councillors may consent to the continuation of the meeting. 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.

## **11.0 QUESTIONS BY MEMBERS**

### **11.1 On Reports of the Cabinet or Committees**

A member of the Council may ask the Leader or appropriate Cabinet Member or the Chairman of a Committee any question without notice upon an item of the report of the Cabinet or by a Committee when that item is being received or under consideration (including debate) by the Council. The Leader, Cabinet Member or Chairman of a Committee may, if they consider it appropriate, chose to answer any such question during a meeting (including during the debate) and where this takes place, the Leader, Cabinet Member or Chairman of a Committee shall be entitled to speak again notwithstanding the provisions at rule 15.6.

## **11.2 Questions on Notice at Full Council**

Subject to Rule 11.4, a Councillor may ask:

- the Chairman;
- a member of the Cabinet;
- the Chairman of any committee, sub-committee or panel;

a question on any matter in relation to which the Council has powers or duties or which affects the District of South Staffordshire

## **11.3 Questions on notice at Committees and Sub-committees**

Subject to Rule 11.4, a member of a committee or sub-committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the District of South Staffordshire and which falls within the terms of reference of that committee or sub-committee.

## **11.4 Notice of questions**

A member may only ask a question under Rule 11.2 or 11.3 if either:

- (a) they have given at least seven working days' notice in writing or by electronic mail of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Cabinet Member/Chairman to whom the question is to be put, and the content of the question is given to the Chief Executive by 11.00 a.m. on the day of the meeting. Every question shall be put and answered without discussion but the person to whom the question has been put may decline to answer.

The Chief Executive may reject a question if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the District;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.

## **11.5 Response**

An answer may take the form of:

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

#### **11.6 Supplementary Question**

A member having given notice of a question under Procedure Rule 11.2 and having received a reply under paragraph 11.5 may ask one supplementary question on the point of the original question. The response to the supplementary question shall be made in accordance with Procedure Rule 11.5.

#### **11.7 No debate on questions**

There shall be no debate on a question submitted under Procedure Rule 11.2 or on a supplementary question under Procedure Rule 11.6. A questioner may request that the matter under question be referred to the appropriate committee or sub-committee, if such a request is made the Chairman will ask for a seconder to the proposal; the seconder will have no right to speak on the proposal. The Member responding to the question shall have the right to comment on the proposed referral. The question will then be put to the vote without further debate.

**11.8** A member may not submit a question under Council Procedure Rule 11 relating to an individual determination made by the Planning, Licensing and Regulatory or Standards and Resources Committees or any sub-committee thereof or taken under powers delegated therefrom.

#### **12.0 REPORT OF THE LEADER OF THE COUNCIL**

**12.1** The Leader of the Council shall at each ordinary meeting of the Council submit a report on the work of the Cabinet and shall be open to question thereon.

**12.2** The Leader of the Council may invite (a) representative(s) of a partner organisation(s) to address the Council in respect of any matters referred to in the Leader's report relating to partnership working between the Council and the organisation(s).

**12.3** A member of the Council may, at the discretion of the Chairman, ask the Leader of the Council a question relating to a matter referred to in the Leader's report to Council and may, after having the response from the Leader (or at the Leader's discretion the relevant Cabinet Member, or representative of a partner organisation) ask one supplementary question on the point of the original question.

**12.4** A member of the Council may question the Leader once (with the provision for a supplementary question) on each item in the Leader's report.

**12.5** An answer by the Leader of the Council may take the form of:

- (a) a direct oral answer by the Leader of the Council;
- (b) a direct oral answer by a Cabinet Member with responsibility for the matter subject to question;
- (c) a direct oral answer from a representative of a partner organisation invited by the Leader of the Council to respond;
- (d) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (e) where the reply cannot conveniently be given orally, a written answer circulated to the questioner.

**12.6** There shall be no debate on a question submitted under Procedure Rule 12.3. A questioner may request that the matter under question be referred to the Cabinet or appropriate committee or sub-committee, if such a request is made the Chairman will ask for a seconder to the proposal, the seconder will have no right to speak on the proposal; the Member of the Council, in responding to the question shall have the right to comment on the proposed referral. The question will then be put to the vote without further debate.

## **13.0 MOTIONS ON NOTICE**

### **13.1 Notice**

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by a councillor, must be delivered to the Chief Executive not later than seven clear days before the date of the meeting. These will be entered in a book open to public inspection and maintained by the Monitoring Officer.

The Chief Executive may reject a motion if it:

- (i) is not about a matter for which the Council has a responsibility or which affects the District;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;
- (iv) requires the disclosure of confidential or exempt information.

### **13.2 Motion set out in agenda**

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

### **13.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the District of South Staffordshire.

### **13.4 Motions not moved**

If a motion set out in the summons is not moved either by a councillor who gave notice thereof or by some other councillor on his/her behalf it shall be treated as withdrawn and shall not be moved without fresh notice.

### **13.5 Automatic reference to committee**

If the subject matter of any motion of which notice has been duly given comes within the province of the Cabinet or any committee or sub-committee it shall, upon being moved and seconded, stand referred without discussion to the Cabinet or such committee or sub-committees, or to such other committee or sub-committee as the Council may determine, for consideration and report: provided that the Chairman may, if he/she considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

## **14.0 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 member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the Cabinet or committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to extend the time limit for a speech;

- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 10 p.m.;
- (o) to take a recorded vote under Procedure Rule 16.4;
- (p) to suspend a particular Council Procedure rule;
- (q) to exclude the public and press in accordance with the Access to Information Rules;
- (r) to not hear further a councillor named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (s) to give the consent of the Council where its consent is required by this Constitution.

## **15.0 RULES OF DEBATE**

### **15.1 No speeches until motion seconded**

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

### **15.2 Right to require motion in writing**

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

### **15.3 Seconded's speech**

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

### **15.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a point of order or personal explanation. No speech may exceed 5 minutes without the consent of the Chairman.

### **15.5 Only one councillor to stand at a time**

A councillor when speaking shall stand (see Rule 20.1) and address the Chairman. If two or more councillors rise, the Chairman shall call on one to speak; the other or others shall then sit. While a councillor is speaking the other councillors shall remain seated, unless rising to a point of order or personal explanation.

### **15.6 When a councillor may speak again**

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

- (a) to speak once on an amendment moved by another councillor;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order or a personal explanation;
- (f) in accordance with Council Procedure Rules 12.3 and 12.4;
- (g) where a Councillor wishes to put forward a factual correction.

A councillor may speak more than once to ask questions of a Cabinet member or officer who is attending the Overview and Scrutiny Committee or the Wellbeing Select Committee, save that when the Committee formally moves to debate the matter before it, the procedure set out above shall apply. The recommendation can be put to the meeting by the Chairman without a proposer and seconder being required at a scrutiny committee.

### **15.7 Planning Committee Variation**

The Rules of Debate are varied in respect of the consideration of planning applications at Planning Committee. The officer recommendation on Individual applications does not require a proposer and seconder. There is no limit on the number of questions that a member of the Committee may ask in respect of a particular application. The application will be presented by the Planning Officer and following representations from interested parties, the application will be subject to questions and debate by members of the Committee. The recommendation contained within the report will be taken without the need for it to be proposed and seconded and will be voted on. The Rules of Debate will apply to any proposed amendment/motion.

## **15.8 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 wordsas 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 are 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.

## **15.9 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 under Procedure Rule 15.8 may be made.

## **15.10 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.

#### **15.11 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.
- (d) A right of reply having been exercised, the question shall immediately be put to the meeting by the Chairman.

#### **15.12 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) that the meeting continue beyond 10.00 p.m.;
- (h) to exclude the public and press in accordance with the Access to Information Rules;
- (i) to not hear further a member named under Procedure Rule 20.3 or to exclude them from the meeting under Rule 20.4;
- (j) a requisition for a recorded vote under Procedure Rule 16.4.

#### **15.13 Closure motions**

- (a) A member 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 without further debate or discussion.
- (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 without further debate or discussion. 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 and without further debate or discussion.

#### **15.14 Point of order and Personal Explanation**

A point of order is a request from a councillor to the Chairman to rule on an alleged irregularity in the procedure of the meeting. 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 the Council Rules of Procedure or the law. The councillor must indicate the rule or law and the way in which he/she considers it has been broken without which the alleged breach shall be disregarded. The ruling of the Chairman on the matter will be final and shall not be open to debate.

A councillor may rise to give a personal explanation at any time and will be heard immediately. A personal explanation must be confined to some material part of a former speech either by or relating to the Member, at the same meeting which may have been misunderstood.

#### **15.15 Motions affecting persons employed by the Council**

If any question arises at a meeting of the Council (or of the Cabinet, a committee or a sub-committee) to which Section 100(A) of the Local Government Act 1972 applies as it relates to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or the conduct of any person employed by the Council, such question shall not be subject of discussion until the Council, Cabinet, or relevant committee or sub-committee as the case may be, has decided whether or not the

power of exclusion of the public under Section 100(A) of the Local Government Act 1972 shall be exercised.

#### **15.16 Councillor with a Disclosable Pecuniary Interest**

Where a Councillor has a Disclosable Pecuniary Interest in a matter to be considered at a meeting, the Councillor may attend the meeting when it considers the item only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise. Once the Councillor has made these representations or the meeting considers that the Councillor has concluded making representations, the Councillor must leave the room and may not remain in the room during the discussion or vote on the matter.

### **16.0 VOTING**

#### **16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put. Only those councillors who have been present for the entirety of the debate on the item in question are entitled to vote.

#### **16.2 Chairman's casting vote**

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

#### **16.3 Method of Voting**

Unless this Constitution provides otherwise, or a recorded vote is demanded under Rule 16.4, the Chairman will at his or her discretion take the vote by electronic vote, show of hands or, if there is no dissent, by the affirmation of the meeting. Generally voting at Planning Committee will be by electronic vote unless the Chairman of the meeting decides otherwise or a recorded vote is to be taken.

#### **16.4 Recorded vote**

There shall be a recorded vote if:

- (a) the majority of Councillors present at the meeting demand it,
- (b) The law so requires it, including in relation to the adoption of the annual budget for the Council

Where there is a recorded vote the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

## **16.5 Right to require individual vote to be recorded**

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

## **16.6 Voting on appointments**

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

## **17.0 MINUTES**

### **17.1 Signing the minutes**

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

### **17.2 Contents of Minutes**

Minutes of meetings of the Council shall record the proposal (including any amendment) moved, duly seconded and adopted by the Council.

### **17.3 No requirement to sign minutes of previous meeting at extraordinary meeting**

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

### **17.4 Form of minutes**

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

## **18.0 RECORD OF ATTENDANCE**

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

## **19.0 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 Procedure Rule 20 (Disturbance by Public).

## **20.0 COUNCILLORS' CONDUCT**

### **20.1 Standing to speak**

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

### **20.2 Ward Members speaking at Planning Committee**

In relation to meetings of the Planning Committee where an application or matter before the Committee relates to a specific ward the Chairman shall invite the ward members to speak first.

### **20.3 Chairman standing**

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

### **20.4 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, either during their speech or at any point during the meeting, the Chairman may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion. If the motion is carried the Councillor concerned may still vote on the matter under debate.

### **20.5 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.

### **20.6 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.

## **21.0 DISTURBANCE BY PUBLIC**

### **21.1 Removal of member of the public**

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

### **21.2 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.

## **22.0 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **22.1 Suspension**

All of these Council Rules of Procedure except Rule 13.5 and 15.3 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.

### **22.2 Amendment**

Any motion to add to, vary, or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **23.0 DELEGATION**

Where there has been any delegation of a power duty or function to a committee, the committee, shall in turn be duly authorised to further delegate the same provided that such delegation does not contravene any other decision of the Council.

## **24.0 SUBSTITUTE MEMBERS**

**24.1** The substitution rules will not apply to meetings of the Cabinet or the Standards and Resources Committee.

**24.2** Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.

**24.3** The Monitoring Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.

**24.4** In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council,

Members must have received the required training in relevant procedures and the law.

**24.5** Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

**24.6** Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting;
- (iii) where the ordinary Member has notified the Monitoring Officer of the intended substitution at least one hour before the start of the relevant meeting.

## **25.0 REPORTS OF OFFICERS**

- (a) Every such report to the Cabinet or any committee or sub-committee shall be issued by the Chief Executive to all councillors, or to all members of the Cabinet, committee, or sub-committee, as the case may be, with the summons or agenda which provides for the consideration thereof, at least 5 working days before the date on which the meeting is to be held, or, exceptionally, as soon as practicable before the meeting.
- (b) All business to be discussed at meetings of the Cabinet or any committee or sub-committee shall be set out in the agenda or in a report thereto.
- (c) The Leader of the Council (or other Councillor presiding at a meeting of the Cabinet) and the Chairman of the appropriate committee shall be authorised to allow urgent business to be brought forward at the conclusion of the business set out on the agenda, provided a written report detailing the subject matter has been circulated to the councillors present at the commencement of the meeting and the reasons for the urgency given.

## **26.0 URGENT ACTION**

The Chief Executive, in consultation with the Leader of the Council, relevant Cabinet Member, or the Chairman of the relevant committee, as appropriate, shall authorise any urgent action when it would be in the best interests of the Council to act prior to the appropriate Council or Committee meeting or prior to an executive decision being made; subject to such action being reported to the next meeting of the Council, the Cabinet or the committee.

## **27.0 INTERESTS OF COUNCILLORS IN CONTRACTS AND OTHER MATTERS**

- (a) If any councillor has a Disclosable Pecuniary Interest in a matter as defined in the Code of Conduct (see Part 5 hereof) and attends a meeting at which the matter is considered the councillor shall disclose to the meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.
- (b) If any councillor has a Disclosable Pecuniary Interest in a matter as defined in the Code of Conduct (see Part 5 hereof) then that member shall:
  - (i) withdraw from the room where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting unless a dispensation has been obtained from the Standards and Resources Committee or has been granted by the Monitoring Officer under in accordance with any delegated authority therefrom:
  - (ii) not exercise executive functions in relation to that matter; and
  - (iii) not seek improperly to influence a decision about that matter.

## **28.0 INTEREST OF EMPLOYEES AND COUNCILLORS IN CONTRACTS ETC**

The Chief Executive shall record in a book to be kept for the purpose particulars of any notice given by an employee of the Council under section 117 of the Local Government Act 1972 of a pecuniary interest in a contract, and the book shall be open during office hours to the inspection of any councillor and a similar record shall be kept of such interests declared by councillors.

## **29.0 PROCEDURE RULES TO BE GIVEN TO COUNCILLORS**

A copy of these Procedure Rules, and of such statutory provisions as regulate the proceedings and business of the Council shall be provided to each councillor by the Monitoring Officer on or before the councillor signs a Declaration of Acceptance of Office on being first elected to the Council.

## **30.0 INSPECTION OF DOCUMENTS**

- (a) A councillor may, for purposes of his/her duty as such councillor but not otherwise, on application in writing to the Chief Executive, inspect any document which has been considered by a committee or by the Council, and if copies are available shall on request be supplied for the like purposes with a copy of such a document.
- (b) The written application shall set out the duty which the councillor is seeking to discharge in inspecting the document and the reasoning underlying the same.



- (c) A councillor shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he/she is professionally interested or in which he/she has a Disclosable Pecuniary Interest as defined in the Code of Conduct (see Part 5 hereof) or, directly or indirectly, any pecuniary interest within the meaning of section 94 of the Local Government Act, 1972. This Procedure Rule shall not preclude the Chief Executive from declining to allow inspection of any document which, in the event of legal proceedings, would be protected by privilege arising from the relationship of solicitor and client.

### **31.0 INSPECTION OF LAND, PREMISES, ETC. BY COUNCILLORS**

A councillor shall not issue any order respecting any works which are being carried out by or on behalf of the Council or claim by virtue of his/her membership of the Council any right to inspect, or to enter upon any lands, offices, or premises which the Council has the power or duty to inspect or enter,

### **32.0 APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of the Council. None of the rules apply to meetings of the Cabinet. Only Rules 6-27 (but not Rules 12, 13) and 26), apply to meetings of committees and sub-committees save that:

- (a) the Chairman of the meeting may at his discretion waive the prohibition on members speaking more than once as contained in Rule 15.6;
- (b) Rule 17.2 shall apply to meetings of the Planning Committee or the Licensing and Regulatory Committee only when those committees are not considering individual applications.
- (c) Rule 9 shall apply to committees and sub-committees subject to a quorum being no fewer than 3 members of the committee/sub-committee.

### **33.0 DETERMINATION OF PLANNING APPLICATIONS BY THE PLANNING COMMITTEE CONTRARY TO OFFICER RECOMMENDATIONS**

The Chairman of the Planning Committee shall not accept a proposal to determine a planning application contrary to officers' recommendations unless:

- (a) a motion to approve a planning application incorporates any conditions to be attached to such approval and also includes reasons for planning permission being granted and reasons for such conditions as may be imposed.
- (b) a motion to refuse a planning application incorporates the grounds for planning permission being refused.

## **PART 4 - SECTION 2 – ACCESS TO INFORMATION PROCEDURE RULES**

### **1.0 Introduction**

These rules apply to all meetings of the Council, the Cabinet and any committees or sub-committees (together referred to in this Section as meetings).

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. In addition to the specific measures set out below the Council will ensure that it complies with the Openness of Local Government Bodies Regulations 2014 in making all relevant papers and documents available to members of the public.

### **2.0 Additional rights to information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

### **3.0 Rights to Attend Meetings, Record Meetings and Public Speaking**

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

Members of the public have a right to speak at Planning Committee in accordance with the Public Speaking at Planning Committee guidance.

Applicants or Licence Holders have a right to speak at Licensing and Regulatory Committee or Licensing Sub-Committee at a hearing relating to their application/licence.

All public meetings of the Council may be recorded; a protocol in respect of the recording of meetings is in place (Appendix B to this Section). Council meetings will be recorded by the Council as deemed appropriate.

The Council Procedure Rules of this Constitution allow that, if a member of the public or press interrupts the proceedings at any meeting, the Chairman may warn him/her. If he/she continues the interruption and a warning has been given, the Chairman may order his/her removal from the meeting place. In the event of a general disturbance in any part of the meeting place open to the public, the Chairman may order that part to be cleared. If the Chairman considers the orderly dispatch of business impossible, the Chairman may without question adjourn the meeting.

#### **4.0 Notices of Meetings**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Council Offices, Codsall (and at the venue at which the meeting is to be held if this is not the Council Offices) and on its website at [www.sstaffs.gov.uk](http://www.sstaffs.gov.uk).

#### **5.0 Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the Council Offices, Codsall and on the website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the agenda has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

#### **6.0 Supply of Copies**

A copy of :

- (i) any agenda and reports which are open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda

will be available view on the Council's website [www.sstaffs.gov.uk](http://www.sstaffs.gov.uk).

#### **7.0 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 the record of decisions taken together with the reasons for those decisions, for all meetings of the Cabinet, 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 considered when the meeting was open to the public.

#### **8.0 Background Papers**

- (a) Every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
  - (i) disclose any facts or matters on which the report or an important part of the report is based; and
  - (ii) 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.
- (b) 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.

## **9.0 Exclusion of Access by the Public to Meetings**

**9.1** The public may only be excluded under rule 9.2 or 9.4 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

## **9.2 Confidential Information – Requirement to exclude public**

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

## **9.3 Meaning of Confidential Information**

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

## **9.4 Exempt Information – Discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or due to the nature of the proceedings, that exempt information would be disclosed. A decision to exclude the public is to be made by a formal resolution of Council, committee or sub-Committee.

When 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.

## **9.5 Meaning of Exempt Information**

Exempt information means information falling within the following categories (subject to any condition):

<u>Category</u>
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes— (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under— (a) the Companies Acts (as defined in Section 2 of the Companies Act, 2006 (b) the Friendly Societies Act, 1974; (c) the Friendly Societies Act, 1992; (d) the Industrial and Provident Societies Acts, 1965 to 1978; (e) the Building Societies Act, 1986; or (f) the Charities Act, 1993.
<u>Category</u>

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations, 1992.

10. Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. (1) In parts 1 and 2 of this Part of this Schedule—

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matters" means—

(a) any of the matters specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act, 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act, 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to—

- (i) any constituent principal council;
- (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
- (iii) any other committee or sub-committee of a principal council falling within subparagraph (i) or (ii) above; and
- (c) in the case of a sub-committee, to—
  - (i) the committee, or any of the committees, of which it is a sub-committee; and
  - (ii) any principal council which falls within paragraph (b) above in relation to that committee.

## **10.0 Exclusion of Access by the Public to Reports**

With the approval of the Monitoring Officer, the Council may withhold public access to reports which, in the opinion of the Monitoring Officer, relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed. If the information is exempt information the category of exemption must also be marked in the report.

## **11.0 Format of Reports**

Every report to Council, the Cabinet or any committee or sub-committee and any report of a Cabinet Member proposing a decision under his/her delegated powers shall be in the agreed format a copy of which is appended as Appendix A to this Part of the Constitution.

## **12.0 Cabinet and Officer Decisions**

### **(a) Advance notice of key decisions**

- (i) The Cabinet is required to give advance notice of forthcoming "Key Decisions", which are defined as any Cabinet, Committee of Cabinet, individual member or officer decision in the course of exercise of an executive function decision likely to:
  - result in the Council incurring expenditure which is or the making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates or
  - be significant in terms of its effects on communities living or working in an area comprising two or more wards within the area of the Council

In addition, any decision involving expenditure or savings of over £300,000 (but excluding any decision relating to investment/withdrawal

of Council monies as part of Treasury Management Procedures) will be considered to be a key decision.

Subject to Rule 12(d) (general exception) and Rule 12(e) (special urgency), a key decision may not be taken unless:

- A Notice of Key Decision has been published in connection with the matter in question;
- at least 28 clear days has elapsed since the publication of the Notice of Key Decision; and
- where the decision is to be taken at a meeting of the Cabinet notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

**(b) Contents of Notice of Key Decision**

The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, an individual Cabinet Member or an officer in the course of the discharge of an executive function. It will describe the following particulars:

- (i) the matter in respect of which the decision is to be made;
- (ii) where the decision maker is an individual, the name and title of the decision maker, and where the decision maker is a body, its name and a list of its membership;
- (iii) the date on which, or the period within which, the decision is to be made;
- (iv) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (v) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (vi) that other documents relevant to the matter may be submitted to the decision maker; and
- (vii) the procedure for requesting details of those documents (if any) as they become available.

**(c) Publication of the Notice of Key Decision**



The Notice of Key Decision must be made available for inspection by the public at The Council Offices, Codsall and on the Council's website [www.sstaffs.gov.uk](http://www.sstaffs.gov.uk) and will be sent to all Members of the Council via email.

**(d) General Exception**

If a Notice of Key Decision has not been published, then subject to Rule 12(e) (special urgency), the decision may still be taken if:

- (i) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
- (ii) the Monitoring Officer has informed the Chairman of the Overview and Scrutiny Committee, or in his/her absence the Vice-Chairman, in writing, or if there is no such person, each member of that committee in writing, by notice, of the matter about which the decision is to be made;
- (iii) the Monitoring Officer has made copies of that notice available to the public at the Council Offices, Codsall, and publish the notice on [www.sstaffs.gov.uk](http://www.sstaffs.gov.uk) and
- (iv) at least 5 clear days have elapsed since the Monitoring Officer complied with 12 (d) (ii) and (iii).

As soon as reasonably practicable after the Monitoring Officer has complied with Rule 12(e), he/she must make available at Council Offices Codsall and publish on [sstaffs.gov.uk](http://sstaffs.gov.uk) the reasons why compliance with Rule 12(d) is impractical.

At least once a year a report must be taken to full Council setting out all executive decisions taken under urgency provisions.

**(e) Special Urgency**

If by virtue of the date by which a key decision must be taken Rule 12(d) (general exception) cannot be followed, then the key decision can only be taken with the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

As soon as reasonably practicable after agreement has been obtained under Rule 12(e), the decision maker must make available at Council Offices Codsall and publish on [sstaffs.gov.uk](http://sstaffs.gov.uk) a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

**(f) Notice of Private Meetings of the Cabinet**

At least 28 clear days before a private meeting the Cabinet must:-

- (i) make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting") including reasons for doing so; and
- (ii) publish that notice on the Council's website.

At least five clear days before a private meeting, the Cabinet must:-

- (i) make available at the Council Offices, Codsall, a further notice of its intention to hold the meeting in private; and
- (ii) publish that notice on the Council's website.

This further notice must include:-

- (i) a statement of the reasons for the meeting to be held in private
- (ii) details of any representations received by the Cabinet about why the meeting should be open to the public; and
- (iii) a statement of the response of the Cabinet to any such representations.

Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the Cabinet has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the Chairman of the Overview and Scrutiny Committee

As soon as reasonably practicable after the Cabinet has obtained agreement to hold a private meeting, it must

- (i) make available at the Council Offices, Codsall, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (ii) publish that notice on the Council's website.

**(g) Where the Chairman of the Overview and Scrutiny Committee is Unable to Act**

Where the agreement of the Chairman of the Overview and Scrutiny is required by 12(d) or 12(e) and where there is no Chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then agreement shall be sought from the Vice-Chairman of the Overview and Scrutiny Committee.

If there is no Vice-Chairman of the Overview and Scrutiny Committee or the Vice-Chairman of the Overview and Scrutiny Committee is unable to act, then the

agreement of the Chairman of the Council, or in his/her absence the Vice Chairman of the Council will suffice.

**(h) Attendance at Private Meetings of the Cabinet**

All members of the Cabinet will be served notice of all private meetings of the Cabinet and shall be entitled to attend private meetings of the Cabinet unless precluded from doing so by law or by the Code of Conduct for Councillors. Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet.

**(i) Recording a Decision by the Cabinet or other Individual Cabinet Member or a Key Decision by an officer**

As soon as reasonably practicable after an Cabinet decision has been made by the Cabinet collectively or by an individual Cabinet Member, the Cabinet or Cabinet Member, or in the case of a key decision made by an officer, the officer shall make a written record of that decision which shall include:

- (a) record of the decision including the date;
- (b) record of reasons for the decision;
- (c) details of alternative options considered;
- (d) record of any conflict of interest declared; and
- (e) any dispensation granted by Standards and Resources Committee or Head of Paid Service, where appropriate.

Records of Cabinet and Key officer decisions shall be sent to the Monitoring Officer who shall maintain such records and shall make them available for public inspection as soon as reasonably practicable after the decision has been taken, together with a copy of any report considered and any background papers.

Rules 12(i)(b) and 12(i)(c) do not apply where the publication of a report or background paper would be likely to disclose exempt or confidential information

<b>SOUTH STAFFORDSHIRE COUNCIL</b>
<b>CABINET – (DATE)</b>
<b>TITLE OF REPORT</b>
<b>REPORT OF (POST)</b>

**PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

(A FEW PARAGRAPHS ON KEY POINTS)

<b>2. RECOMMENDATIONS</b>
<b>2.1</b>

**3. SUMMARY IMPACT ASSESSMENT**

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	Detail
	Has as Equality Impact Assessment (EqIA) been completed?	
	Yes/No	Summary of findings or reason why not completed
SCRUTINY POWERS APPLICABLE	Yes/No	
KEY DECISION	Yes/No	
TARGET COMPLETION/ DELIVERY DATE	Details	

FINANCIAL IMPACT	Yes	Detail – to be completed by Finance Officer
LEGAL ISSUES	Yes	Detail – to be completed by Legal Officer
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	Summary of Details
IMPACT ON SPECIFIC WARDS	Yes/No	Details as necessary

**PART B – ADDITIONAL INFORMATION**

4. INFORMATION

Details of proposal including **alternative options considered** if applicable and **consultation undertaken** if any.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

Further details of any impacts as necessary  
EqIA to be attached as appendix

6. PREVIOUS MINUTES

Details if issue has been previously considered

7. BACKGROUND PAPERS

List of background papers used in preparation of report

Report prepared by:

Name and Post



# South Staffordshire Council

## Filming, Videoing, Photography and

### Audio Recording at council meetings

South Staffordshire Council is committed to being open and transparent in the way it conducts its business. The press and members of the public are therefore welcome to film, photograph or record decision making in action at any meeting that is open to the public.

The Council also welcomes the use of social media, such as bloggers, tweeters, Facebook and YouTube users.

This Protocol provides practical information to assist anyone considering filming, videoing, photographing or making audio recordings of meetings.

#### **Before the meeting**

Anyone intending to film or record a meeting should contact the Director Legal and Governance for advice and guidance. Reasonable advance notice will enable practical arrangements to be made and any special requirements to be discussed.

Flash photography, additional lighting or large equipment will not be permitted, unless agreed in advance and it can be accommodated without causing disruption to the proceedings. Requests to use equipment of this nature will be subject to consideration of the constraints of the meeting rooms.

#### **General**

The Chairman of the meeting or the relevant Cabinet Member will be informed of any intention to film and s/he will make an announcement to attendees before the start of the meeting informing attendees that the meeting may be filmed.

Notice of the filming/recording/broadcasting of meetings will be displayed in and outside the place of meeting and meeting agendas will include the following:

“The Council, members of the public and the press may record/film/photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any

member of the public who attends a meeting and objects to being filmed should advise the Director Legal and Governance (in advance) who will instruct that they are not included in the filming.”

Members of the public speaking at, or attending, the meeting (including asking questions or presenting petitions) must not be filmed if they have indicated that they do not wish to be included.

Recording and reporting the council’s meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

The Council will display the requirements as to filming, recording and broadcasting at its meeting venues and those undertaking these activities will be deemed to have accepted them whether they have read them or not.

The Council will publish the guidance on the filming, recording and broadcasting of meetings on its website.

Filming or recording must be non-intrusive and the Council’s Rules of Procedure Rule 22 provides for the removal of a member of the public from a meeting should that person, having been warned, continue to interrupt proceedings. The Chairman of a meeting or an individual Cabinet Member may also call any part of the meeting room to be cleared in the event of a general disturbance.

It should be noted that the Chairman of a meeting will have absolute discretion to terminate or suspend any of the above activities if, in his/her opinion, continuing to do so would prejudice the running of the meeting. The circumstances in which termination or suspension might occur could include:

- public disturbance, disruption or suspension of the meeting.
- the meeting agreeing to formally exclude the press and public from the meeting due to the exempt/confidential nature of the business being discussed, in accordance with statutory procedures.
- where it is considered that continued recording/ photography/ filming/ webcasting might infringe the rights or privacy of any individual (including staff members), or intimidate them.
- for any other reason which the Chairman considers reasonable in the circumstances.

## During the meeting

Filming or recording of Meetings should:

- Not interfere with the effective conduct of the meeting, nor should it be disruptive or distracting. The Chairman or the Cabinet Member has discretion to suspend or stop filming or recording at any time if and to take appropriate action if anyone is, in his/her opinion, doing so in a disruptive manner.
- Not seek to 'overview' sensitive information such as close ups of confidential papers or private notes
- Usually take place from a specified location(s) within the room.
- Not obstruct others from observing and participating in the proceedings.
- Cease immediately if and when the meeting agrees to formally exclude the Press and public due to business of an Exempt or Confidential nature (see 'Exempt or confidential business' below).
- Not be edited in a way that could lead to misinterpretation of the proceedings or the comments made, or that ridicules those being filmed.
- When published or broadcast, recordings should be accompanied by information including when and where the recording was made and the context in which the discussion took place.
- Be overt (i.e. clearly visible to anyone at the meeting).
- Cease, unless continued filming has been explicitly agreed in advance with the Director Legal and Governance, when the meeting is formally concluded.

## Exempt or confidential business

All meetings of the Cabinet, Committee, Sub Committee and Panel meetings are open to the public except in limited circumstances where the Council is legally required, or allowed, to close the meeting to the public. The circumstances where business is 'exempt' or 'confidential' are set out in Section 2 Part 4 of the Council's Constitution.



## **PART 4 - SECTION 3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1.0 The Framework for Cabinet 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 Cabinet to implement it. References in these rules to the Policy Framework are to the plans and strategies required by law to be adopted by the Council as set out in Article 4.

#### **Process for developing Policy Framework**

- 1.1 The Leader of the Council will publicise at the Council's offices, on its website, and in the Council's newspaper, a timetable for making proposals to the Council for the adoption of any plan, strategy, or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Committee and the Chairman of the Audit & Risk Committee will also be notified. The consultation period shall, in each instance, be dependent on the nature or complexity of the plan strategy or budget in question but shall not be less than 4 weeks."
- 1.2 At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. The Cabinet will then consult the Overview and Scrutiny Committee on the proposals. It will be open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response submitted from the Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees, and the Cabinet's further response.
- 1.3 Once the Cabinet has approved the firm proposals, they will be referred at the earliest opportunity to the Council for decision.
- 1.4 In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- 1.5 If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- 1.6 The decision will be publicised and a copy shall be given to the Leader of the Council.
- 1.7 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in Rule 1.8 below.

1.8. Before the Council:

1.8.1 amends the draft plan or strategy;

1.8.2 approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

1.8.3 adopts (with or without modification) the plan or strategy,

it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

1.9 Where the Council gives instructions in accordance with Rule.1.8, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions within which the Leader of the Council may:-

1.9.1 submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or

1.9.2 inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

1.10 When the period specified by the authority, referred to in paragraph 1.9, has expired, the Council must, when:-

1.10.1 amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

1.10.2 approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

1.10.3 adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

- 1.11 Subject to Rule 1.15, where, before 8th February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:-
- 1.11.1 estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - 1.11.2 estimates of other amounts to be used for the purposes of such a calculation;
  - 1.11.3 estimates of such a calculation; or
  - 1.11.4 amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,
- and following consideration of these estimates or amounts the Council has any objections to them, it must take the action set out in Rule 1.12.
- 1.12 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 1.11.1, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of the Council of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- 1.13 Where the Council gives instructions in accordance with Rule 1.12, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader of the Council may:-
- 1.13.1 submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - 1.13.2 inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- 1.14 When the period specified by the Council, referred to in Rule 1.13, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 1.13, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:-
- 1.14.1 any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - 1.14.2 the Cabinet's reasons for those amendments;

1.14.3 any disagreement that the Cabinet has with any of the Council's objections;  
and

1.14.4 the Cabinet's reasons for that disagreement,

which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

1.15 The above Rules shall not apply in relation to -

1.15.1 calculations or substitute calculations which the Council is required to make in accordance with relevant legislation; and

1.15.2 amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with relevant legislation.

1.16 In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and degree of in-year adjustments to the Policy Framework which may be undertaken by the Cabinet, in accordance with these Rules and the Financial Procedure Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

1.17 The Cabinet will in addition to the above provisions consult the Scrutiny Committee regularly in the process of preparing the draft budget and draft plans and strategies and, where appropriate, stakeholders.

## **2.0 Decisions outside the Budget and Policy Framework**

2.1 Subject to the provisions of Rule 1.16 and Rule 3.3 below the Cabinet members of the Cabinet, and any officers discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons considers it desirable for a decision to be made which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council, that decision may only be taken by the Council, subject to Rule 3.3 below.

## **3.0 Urgent decisions outside the Budget or Policy Framework**

3.1 The Cabinet 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. However, the decision may only be taken if it is not practical to convene a meeting of the full Council and the Chairman of the Overview and Scrutiny Committee or in his absence the Vice-Chairman of the Overview and Scrutiny Committee agrees that the decision needs to be taken as a matter of urgency.

3.2 The reasons why it is not practical to convene a meeting of the Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

3.3 Following the decision, the Cabinet 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.

#### **4.0 Virement**

4.1 The Financial Procedure Rules set out the arrangements for authorising virement between budget heads. Virement of expenditure permitted under the Financial Procedure Rules shall be deemed to be expenditure within the Council's Budget. Virement between budget heads is an integral and important feature of budgetary control. It allows service providers to adapt to service changes within the Council Policy Framework. The details of virement can be found in Financial Procedure Rules in Part 4 of the Constitution.

#### **5.0 In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, members of the Cabinet, or officers discharging Cabinet 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 as set out in Rules 2.0, 3.0 and 4.0 above.

#### **6.0 Call-in of decisions outside the Budget or Policy Framework**

Save in the circumstances referred to in Rule 3.0 above, if the Monitoring Officer and/or Corporate Director Finance and Resources consider that a proposed decision would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, no action may be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council may:

- (a) determine that the proposed decision falls within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council shall be minuted and circulated to all councillors in the normal way; or
- (b) amend the Council's policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that decision of the Council shall be minuted and circulated to all councillors in the normal way; or
- (c) where the Council accepts that 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 or budget to accommodate it, require the Cabinet to reconsider the matter; or

- (d) approve the decision or proposal as an exception to the policy; or
- (e) provide the relevant budgetary provision for the decision or proposal.

## **PART 4 - SECTION 4 - CABINET PROCEDURE RULES**

### **1.0 How Does The Cabinet Operate**

#### **1.1 Who may make Cabinet decisions?**

Cabinet functions may be discharged by:

- (i) the Cabinet as a whole;
- (ii) an individual member of the Cabinet;
- (iii) an officer;

#### **1.2 Delegation by the Leader**

Following the annual meeting of the Council, the Monitoring Officer will, at the direction of the Leader, draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. This will contain the following information about executive functions in relation to the coming year:

- 1.2.1 the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- 1.2.2 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.

#### **1.3 Sub-delegation of executive functions**

- 1.3.1 Where the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an officer.
- 1.3.2 Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The Council's scheme of delegation and executive functions**

- 1.4.1 The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Monitoring 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 or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

## **1.5 Cabinet meetings – when and where?**

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's Main Offices, Codsall or another location to be agreed by the Leader of the Council.

## **1.6 Public or private meetings of the Cabinet?**

The Cabinet will meet in public subject to the right to meet in private under the Local Government Act 1972 (as reflected in the Access to Information Rules in Part 4 of this constitution).

## **1.7 Quorum**

The quorum for a meeting of the Cabinet shall be 3 (for the avoidance of doubt the Leader/Deputy Leader shall be included in terms of the number of members attending cabinet but are not required to be there for the meeting to be quorate).

## **1.8 How are decisions to be taken by the Cabinet?**

Cabinet decisions which have been delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.

## **2.0 How Are Cabinet Meetings Conducted?**

### **2.1 Who presides?**

If the Leader of the Council is present, he/she will preside. In his/her absence, the Deputy Leader of the Council will preside. If neither the Leader nor the Deputy Leader of the Council are present, a member of the Cabinet elected to do so by those present shall preside.

### **2.2 Who may attend?**

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 Cabinet the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) apologies for absence;
- (iii) declarations of interest, if any;
- (iv) matters set out in the agenda for the meeting, including matters referred to the Cabinet (whether by a scrutiny committee, or by the Council) for reconsideration by the Cabinet 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; and consideration of reports from the Overview and Scrutiny Committee or the Wellbeing Select Committee. The agenda shall indicate which are key decisions and which are not to be considered in public in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

## **2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet on proposals relating to the budget and policy framework must contain in a standard paragraph of the report details of the nature and extent of consultation with stakeholders and the relevant scrutiny committee, 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 Who can put items on the Cabinet agenda?**

- (i) The Leader of the Council will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes and which is a matter which may be the responsibility of the Cabinet or a Cabinet Member. The Chief Executive shall comply with the Leader of the Council's requests in this respect.
- (ii) Any member of the Cabinet may require the Leader of the Council to place an item on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a requirement in writing the Leader of the Council will comply with it;
- (iii) The Chief Executive will place on the agenda of the next or next but one meeting of the Cabinet any item which the Council or a scrutiny committee have resolved that be considered by the Cabinet;
- (iv) Any councillor may ask the Leader of the Council to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader of the Council agrees the item will be considered at the next or next but one meeting of the Cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered. The councillor will be invited to attend the meeting, whether or not it is a public meeting.
- (v) The Monitoring Officer and/or the Corporate Director Finance and Resources may request the Chief Executive to place an item for consideration on the agenda of a Cabinet meeting and may request him to call such a meeting in pursuance of their statutory duties. The Chief Executive will comply with that request. If there is no meeting of the Cabinet timely enough to deal with the issue in question, the Chief Executive shall convene an earlier meeting of it at which the matter will be considered.

## **PART 4 - SECTION 5 – OVERVIEW AND SCRUTINY PROCEDURE RULES**

**1.0** The Council at its annual meeting will appoint an Overview and Scrutiny Committee, an Asset Scrutiny Panel and a Wellbeing Select Committee known collectively as “the scrutiny committees”. The scrutiny committees may not appoint sub-committees or panels.

1.1 The scrutiny committees will perform all overview and scrutiny functions on behalf of the Council, in accordance with this Constitution.

1.2 The Overview and Scrutiny Committee will comprise all councillors who are not members of the Cabinet, together with such non-elected members as it may co-opt and who shall be non-voting members.

1.3 The Wellbeing Select Committee will comprise 15 councillors appointed by the Council who are not members of the Cabinet, and the lead County Councillor for health scrutiny in South Staffordshire appointed by Staffordshire County Council (who shall be a full voting member of the committee), together with any such non-elected members as it may co-opt and who shall be non-voting members.

1.4 The Asset Scrutiny Panel will comprise 7 councillors appointed by the Council who are not members of the Cabinet.

1.4 The terms of reference of the scrutiny committees are set out in Part 3 of this Constitution.

### **2.0 WHO MAY SIT ON THE SCRUTINY COMMITTEES**

2.1 All Councillors except members of the Cabinet shall be eligible to serve on the scrutiny committees. However, no councillor may be involved in scrutinising a decision in which he/she has been directly involved.

### **3.0 CO-OPTTEES**

3.1 The scrutiny committees shall be entitled to appoint persons as non-voting co-optees.

### **4.0 MEETINGS OF THE SCRUTINY COMMITTEES**

4.1 Meetings will be held in accordance with the schedule of meetings approved by the Council and additional meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by a Chairman of the relevant scrutiny committee, by any member of the committee, or by the Chief Executive if he/she considers it necessary or appropriate.

## **5.0 QUORUM**

- 5.1 The quorum for the scrutiny committees shall be one quarter of the voting members of the committee or three voting members whichever is the greater number.

## **6.0 WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE**

- 6.1 The Chairmen of the scrutiny committees will be drawn from among the members sitting on the relevant committee, save that the Chairman or Vice-Chairman of the Council shall not be the chairman or vice-chairman of a scrutiny committee. The Chairman of the Overview and Scrutiny Committee may not also chair the Wellbeing Select Committee.

## **7.0 SCRUTINY WORK PROGRAMME**

- 7.1 The scrutiny committees will, within their terms of reference, be responsible for setting their own work programme and in doing so they shall take into account wishes of members on the committee who are not members of the largest political group on the Council.
- 7.2 At the first meeting in each Municipal Year the Overview and Scrutiny Committee shall approve the Scrutiny Work Programme and determine what, if any, part of the work programme shall be undertaken by the Wellbeing Select Committee.
- 7.3 The Overview and Scrutiny Committee will review the Scrutiny Work Programme at least annually.

## **8.0 AGENDA ITEMS**

- 8.1 Any member of the Council shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of a scrutiny committee to be included on the agenda for the next available meeting of the relevant committee. On receipt of such a request the Chief Executive will ensure that the item is included on the next available agenda provided that seven working days has been given to the Monitoring Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

## **9.0 REVIEW OF COUNCIL ACTIVITIES**

- 9.1 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of Council activity. The Overview and Scrutiny Committee may discharge this function through the Wellbeing Select Committee which will report to the Overview and Scrutiny Committee. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or the Council. The Council and/or the

Cabinet shall consider the report of the Overview and Scrutiny Committee at its next or next but one meeting.

## **10.0 COUNCILLOR CALL FOR ACTION**

10.1 Any member of the Council may refer a matter which affects their ward to the Overview and Scrutiny Committee (except that a member may not exercise this right relevant to a matter upon which they may exercise Cabinet powers). The Overview and Scrutiny Committee may refer the matter to the Wellbeing Select Committee.

10.2 Any member referring a Councillor Call for Action shall have the right to:-

- make representations to the Overview and Scrutiny Committee as to why the committee should scrutinise the decision
- if the Overview and Scrutiny Committee decides not to scrutinise the matter, receive reasons from the committee for not doing so.
- if the Overview and Scrutiny Committee (or the Wellbeing Select Committee if the matters is referred to that Committee) decides to scrutinise the matter, receive the committee report and/or recommendation(s)

## **11.0 PETITIONS**

11.1 To consider, in accordance with the Council's Petitions Scheme any petition signed by at least 1,000 qualifying persons which calls for evidence from a Senior Officer.

## **12.0 POLICY REVIEW AND DEVELOPMENTS**

12.1 The role of the Overview and Scrutiny Committee 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.

12.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the scrutiny committees may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference;

12.3 The scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process within the budgetary provision assigned to it. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations within such budgetary provision. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors, and witnesses a reasonable fee and expenses for doing so within the budgetary provision assigned to it.

### **13.0 REPORTS FROM THE SCRUTINY COMMITTEES**

- 13.1 Once it has formed recommendations on proposals, a scrutiny committee will prepare a formal report and submit it to the Chief Executive for consideration by Council or by the Cabinet which shall consider and respond to the recommendations.
- 13.2 The Council or the Cabinet shall consider the report of the scrutiny committee at its next or next but one meeting.

### **14.0 MAKING SURE THAT SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

- 14.1 The reports of the scrutiny committees referred to the Cabinet shall be included in the agenda by the Chief Executive at the next or next but one meeting.
- 14.2 Where a scrutiny committee prepares a report for consideration in relation to a matter where the Council has delegated decision making power to an individual member of the Cabinet, the scrutiny committee, will submit a copy of its report to him/her for consideration and, at the same time send a copy of the report to the Chief Executive. The member with delegated decision making power must consider the report and respond in writing to the scrutiny committee, within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Chief Executive and the Leader of the Council. The member will also, at the request of the scrutiny committee, attend a future meeting of the scrutiny committee, to present the response.

### **15.0 SCRUTINY OF CABINET DECISIONS**

- 15.1 All key decisions will routinely be referred to the Overview and Scrutiny Committee for consideration prior to any decisions being taken thereon by the Cabinet, Cabinet Member or Officer exercising executive functions.
- 15.2 Once any proposed decision (whether or not the proposal constitutes a key decision) has been considered by the Overview and Scrutiny Committee, and subject to that committee having no adverse comments to make thereon, any decision of the Cabinet or a Cabinet Member in accordance with that proposal will not be subject to further call in and, unless prescribed by law or the Council's Constitution, not subject to any requirement for approval by Council.
- 15.3 Where a Cabinet decision has been made (either by the Cabinet, a Cabinet Member or an officer) and that decision was not treated as a key decision and the Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision, the Overview and Scrutiny Committee may require the Cabinet or officer to submit a report to full Council within a reasonable period. The report must include details of the decision and reasons for it, by whom the decision was taken and the reasons for not classing the decision as key.

## **16.0 CONSIDERATION OF ISSUES PROPOSED BY A MINORITY GROUP**

- 16.1 One Opposition Day per year will be allocated to each scrutiny committee. The item for debate shall be determined by the largest minority group on the Council, but must be a matter within the remit of the relevant scrutiny committee.
- 16.2 The Leader of the largest minority group on the Council shall advise the Chairman of the relevant scrutiny committee of the subject for the Opposition Day Debate at least three weeks prior to the debate taking place. In the absence of such a Leader the item for debate at a scrutiny committee shall be determined by the Member(s) of the committee who is/are not Members of the controlling group on the Council. In this event the Member shall/or Members shall jointly, advise the Chairman of the relevant scrutiny committee of the subject for the Opposition Day Debate at least three weeks prior to the debate taking place.
- 16.3 The Leader of the largest minority group on the Council shall, unless a member of the Cabinet, be entitled to attend the scrutiny committee considering a matter submitted to the committee pursuant to Paragraph 15.1, to introduce the matter and answer questions thereon, but may not take part in the debate or voting thereon unless a member of the committee.

## **17.0 COUNCILLORS AND EMPLOYEES GIVING ACCOUNT**

- 17.1 Within its terms of reference each scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require, in accordance with any protocol the Council may adopt, any member of the Cabinet, the Chief Executive, or any employee to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- their performance,

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

- 17.2 Where any member of the Cabinet or employee is required to attend a scrutiny committee, under this provision, the chairman of that committee or panel will inform the Director Legal and Governance. The Director Legal and Governance shall inform the councillor or employee in writing giving at least 5 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, the councillor or employee concerned will be given sufficient notice to allow for preparation of that documentation.

17.3 Where, in exceptional circumstances, the member of the Cabinet or employee is unable to attend on the required date, the Chairman of the scrutiny committee, shall, in consultation with the councillor or employee, arrange an alternative date for attendance to take place within a maximum of 21 days from the date of the original request, unless an extended period is agreed by the relevant chairman.

## **18.0 ATTENDANCE BY OTHERS**

18.1 A scrutiny committee may invite people other than those people referred to in paragraph 16 above to address it, discuss issues of local concern, and/or answer questions. It may for example wish to hear from residents, stakeholders (including partner organisations), and councillors and employees in other local authorities and shall invite such people to attend.

18.2 With the agreement of the relevant chairman, all non-Cabinet members may make representations to a scrutiny committee, of which they are not a member, although they may not take part in the debate or formally put forward proposals.

18.3 With the agreement of the relevant scrutiny committee, a Cabinet member may make representations to a scrutiny committee acting in his/her capacity as a Ward Councillor, subject to the matter under consideration not falling within that Member's responsibilities, but may not take part in the debate or formally put forward proposals.

18.4 With the agreement of the relevant scrutiny committee chairman, a non-Cabinet member excluded under Paragraph 2.1 may make representations to a scrutiny committee acting in his/her capacity as Ward Councillor, but may not take part in the debate formally put forward proposals or vote on relating to a decision in which he/she has been directly involved and even if he/she is a member of the Committee

18.5 Nothing in the Overview and Scrutiny Procedure Rules 18.2 and 18.3 inhibits a member's ability to submit a Councillor Call for Action pursuant to Overview and Scrutiny Procedure Rule 10.

## **19.0 CALL-IN**

19.1 When a decision is proposed by the Cabinet or an individual Cabinet Member, notice of it shall be published, by electronic means (i.e. utilising the group mail scrutiny address on the Council's e-mail system). All non-Cabinet members, together with the Monitoring Officer and Corporate Director Finance and Resources will be sent copies within the same timescale by the person responsible for proposing the decision.

19.2 The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the proposed decision, unless any 2 members object and call it in. Where a member calls in a decision for scrutiny that member

shall specify the reason or reasons for requesting consideration by the Overview and Scrutiny Committee. A decision called-in for scrutiny will be referred to the Overview and Scrutiny Committee in the first instance save that, in exceptional circumstances and with the approval of the Chairman of the Overview and Scrutiny Committee, the decision may be referred to the Wellbeing Select Committee for consideration. The Monitoring Officer or the Corporate Director Finance and Resources may also call-in a matter for scrutiny on the same terms as non-Cabinet members.

- 19.3 During the call-in period, the Director Legal and Governance shall call in a decision for scrutiny by the Overview and Scrutiny Committee if so requested in accordance with 19.2 above, and shall then notify the decision-maker of the call-in. The Director Legal and Governance shall call a meeting of the Overview and Scrutiny Committee, on such date as he/she may determine, where possible after consultation with the chairman of the committee.
- 19.4 If, having considered the proposed decision, the Overview and Scrutiny Committee, or the Wellbeing Select Committee where a matter is referred to that committee, is still concerned about it, it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred back, the decision maker shall then reconsider the decision, amending it, abandoning it, or pursuing it. If having taken account of the Overview and Scrutiny Committee recommendations the decision maker decides to amend, abandon or pursue the decision it shall be notified to members in accordance with the procedures set out at paragraph 19.1 and 19.2 but the decision shall not be further subject to the call-in procedure.
- 19.5 If having been taken back for reconsideration by the decision making person or body, proposes a decision in accordance with the recommendation(s) of the Overview and Scrutiny Committee or the Wellbeing Select Committee where a matter is referred to that committee, then this decision shall be notified to members in accordance with the procedures set out at paragraph 19.1 and 19.2 but the decision shall not be further subject to the call-in procedure.
- 19.6 If having considered the proposed decision, the scrutiny committee does not refer the matter back to the decision making person or body for reconsideration, the decision shall take effect on the date of the Overview and Scrutiny Committee, or Wellbeing Select Committee.
- 19.7 If on referral back by the Wellbeing Select Committee the decision making person or body indicates they will not alter the proposed decision, the matter will be referred to the Overview and Scrutiny Committee for consideration. If having taken account of the Overview and Scrutiny Committee recommendations the decision maker decides to amend, abandon or pursue the decision shall be notified to members in accordance with the procedures set out at paragraph 19.1 and 19.2 but the decision shall not be further subject to the call-in procedure.
- 19.8 The call-in procedure shall not apply:



- where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the chairman, the Vice-Chairman's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Committee, together with the reasons for urgency.
- to decisions taken by the Cabinet Member for Welfare Services in accordance with a recommendation from the Housing Review Panel.

## **20.0 CABINET DECISIONS SUBMITTED FOR SCRUTINY**

20.1 The procedures at paragraphs 19.5 to 19.8 will be applied to all proposed decisions by the Cabinet or a member of the Cabinet considered by the Overview and Scrutiny Committee, or the Wellbeing Select Committee.

## **21.0 PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

21.1 The Overview and Scrutiny Committee shall consider the following business:

- (i) minutes of the last meeting;
- (ii) apologies
- (iii) declarations of interest;
- (iv) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (v) a Councillor Call for Action
- (vi) the business otherwise set out on the agenda for the meeting.

21.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. 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 will be conducted fairly and all members of the committee given the opportunity to ask questions of attendees and to contribute and speak;

- (ii) those assisting the committee by giving evidence be treated with respect and courtesy; and

that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- 21.3 Paragraph 21.1 and 21.2 shall also apply to meetings of the Wellbeing Select Committee.
- 21.4 Following any investigation or review, the Overview and Scrutiny Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate.
- 21.5 Following an investigation or review the Wellbeing Select Committee shall prepare a report for the Overview and Scrutiny Committee which will consider the report for submission to the Cabinet/and or Council as appropriate.
- 21.6 Subject to Access to Information and Confidentiality rules, all reports and findings arising from investigations by the Overview and Scrutiny Committee or Wellbeing Select Committee shall be made public.

## **22.0 SCRUTINY COMMITTEE RECOMENDATIONS**

- 22.1 When at a meeting of the Overview and Scrutiny Committee or Wellbeing Select Committee a proposition is made, at the request of the proposer that reference to that proposition shall be included in the scrutiny section of the subsequent report to Council, such reference shall be so included in the relevant section of that report.

## **23.0 SCRUTINY REVIEWS**

- 23.1 The schedule of scrutiny reviews proposed shall be presented to the Overview and Scrutiny Committee for consideration at least annually; this shall include the reviews proposed to be undertaken by the Wellbeing Select Committee.
- 23.2 Upon commencement of a scrutiny review the scoping of the review and the proposed consultation exercise will be approved by the Overview and Scrutiny Committee or where appropriate, the Wellbeing Select Committee.
- 23.3 Progress against a scrutiny review improvement plan shall be reported to the Overview and Scrutiny Committee or where appropriate the Wellbeing Select Committee by the relevant Cabinet Member at least annually.
- 23.4 In the case of cross-cutting Scrutiny Reviews or a review of areas falling primarily outside Cabinet responsibilities, the Overview and Scrutiny Committee will determine whether to carry out the review itself or if appropriate to refer the matter to the Wellbeing Select Committee for investigation.



## **SECTION 6**

### **FINANCIAL PROCEDURE RULES**

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## **STATUS OF FINANCIAL PROCEDURE RULES**

- 1.1** Financial procedure rules provide the framework for managing the authority's financial affairs. They apply to every member and officer of the Council and anyone acting on its behalf.
- 1.2** They form an integral part of the regulations and procedures used within the Council and should not be considered in isolation to other parts of the Constitution particularly Contract Procedure Rules and other financial policies and procedures.
- 1.3** The procedure rules identify the financial responsibilities of the Council, Cabinet and scrutiny members, the Head of Paid Service, the Corporate Director Finance and Resources and Monitoring Officer.
- 1.4** All members and staff 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, provides value for money and achieves best value.
- 1.5** The Corporate Director Finance and Resources is responsible for maintaining a continuous review of the financial procedure rules and submitting any additions or changes necessary to the Council for approval. This will usually be done during the annual review of the Constitution. The Corporate Director Finance and Resources is also responsible for reporting, where appropriate, breaches of the financial procedure rules to the Council and/or to the Cabinet members.
- 1.6** The authority's detailed financial procedures, setting out how the procedure rules will be implemented, are contained in the appendices to the financial procedure rules.
- 1.7** Members of Corporate Leadership Team are responsible for ensuring that all staff in their service areas are aware of the existence and content of the authority's financial procedure rules and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their service areas.
- 1.8** The Corporate Director Finance and Resources is responsible for issuing advice and guidance to underpin the financial procedure rules that members, officers and others acting on behalf of the authority are required to follow.
- 1.9** Reference to Head of Paid Service, Monitoring Officer, Corporate Director Finance and Resources, Members of Corporate Leadership Team, and Assistant Directors should be construed with reference to article 12 of this Constitution.

- 1.10** The Council's Corporate Leadership Team comprises the Chief Executive ,the three Corporate Directors and the Director of Legal & Governance.

## **Financial Regulation A: Financial Management**

### INTRODUCTION

- A.1** Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

### THE COUNCIL

- A.2** The Council is responsible for adopting the authority's constitution and members' code of conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3** The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

### THE CABINET

- A.4** The Cabinet is responsible for proposing the policy framework and budget to the Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
- A.5** Cabinet decisions can be delegated to an individual Cabinet member, an officer or a joint committee.
- A.6** The Cabinet is responsible for establishing protocols to ensure that individual Cabinet members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### COMMITTEES OF THE COUNCIL

- A.7** The Council has established the following committees:
- Overview and Scrutiny
  - Planning
  - Licensing and Regulatory

- Audit & Risk
- Standards and Resources
- Wellbeing Select Committee

**A.8** The functions of these Committees can be found at Part 3 of the Constitution.

#### THE STATUTORY OFFICERS

**THROUGHOUT THESE PROCEDURE RULES REFERENCES TO THE HEAD OF PAID SERVICE, CORPORATE DIRECTOR FINANCE AND RESOURCES, MONITORING OFFICER, CORPORATE LEADERSHIP TEAM AND CORPORATE DIRECTORS SHOULD BE CONSTRUED WITH REFERENCE TO DEFINITIONS IN ARTICLE 12 OF THIS CONSTITUTION.**

#### Head of Paid Service

**A.9** The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. He or she must report to and provide information for the Cabinet, the Council, the Overview and Scrutiny Committee and other committees. He or 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 Council's decisions (see below).

#### Monitoring Officer

**A.10** The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards and Resources committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

**A.11** The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that council members are aware of decisions made by the Cabinet.

**A.12** The Monitoring Officer is responsible for advising all councillors and officers about who has authority to take a particular decision.

**A.13** The Monitoring Officer is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the policy framework.

**A.14** The Monitoring Officer (together with the Corporate Director Finance and Resources) is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- initiating a new policy
- committing expenditure in future years to above the budget level
- incurring inter-service transfers above virement limits
- causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

**A.15** The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

Corporate Director Finance and Resources

**A.16** The Corporate Director Finance and Resources has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden.

The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2011.

**A.17** The Corporate Director Finance and Resources is responsible for:

- the proper administration of the authority's financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management.

**A.18** **Section 114** of the Local Government Finance Act 1988 requires the Corporate Director Finance and Resources to report to the Council, Cabinet and external auditor if the authority 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 authority
- is about to make an unlawful entry in the authority's accounts.

Section 114 of the 1988 Act also requires:

- the Corporate Director Finance and Resources to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the authority to provide the Corporate Director Finance and Resources with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

#### MEMBERS OF CORPORATE LEADERSHIP TEAM

**A.19** Members of Corporate Leadership Team are responsible for:

- ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Corporate Director Finance and Resources

**A.20** It is the responsibility of members of Corporate Leadership Team to consult with the Corporate Director Finance and Resources and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

#### OTHER FINANCIAL ACCOUNTABILITIES

##### Virement

**A.21** The Council is responsible for agreeing procedures for virement of expenditure between budget headings.

##### Accounting policies

**A.22** The Corporate Director Finance and Resources is responsible for selecting accounting policies and ensuring that they are applied consistently.

##### Accounting records and returns

**A.23** The Corporate Director Finance and Resources is responsible for determining the accounting procedures and records for the authority.

## The annual statement of accounts

- A.24** The Corporate Director Finance and Resources is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC). The Audit & Risk Committee is responsible for approving the annual statement of accounts.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING**

### **INTRODUCTION**

**B.1** The Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- the Council plan
- the medium term financial strategy
- the budget
- the capital programme

### **POLICY FRAMEWORK**

**B.2** The Council is responsible for approving the policy framework and budget. The policy framework comprises the following statutory plans and strategies:

- Council plan
- capital programme
- treasury management policy statement
- sustainable community strategy
- crime and disorder reduction strategy?
- plans and strategies which together comprise the development plan
- local development framework
- risk management strategy

**B.3** The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the Council by the Monitoring Officer.

**B.4** The Council is responsible for setting the level at which the Cabinet may vire budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

## Preparation of the Council plan

- B.5** The Chief Executive is responsible for proposing the Council plan to the Cabinet for consideration before its submission to the Council for approval.

## CABINET BUDGETING

### Budget format

- B.6** The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Corporate Director Finance and Resources. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds where necessary.

### Budget preparation

- B.7** The Corporate Director Finance and Resources is responsible for ensuring that a revenue budget is prepared on an annual basis and a medium term financial strategy on a rolling five-yearly basis for consideration by the Cabinet, before submission to the Council. The Council may amend the budget or ask the Cabinet to reconsider it before approving it.
- B.8** The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Corporate Director Finance and Resources as soon as possible following approval by the Council.
- B.9** It is the responsibility of members of Corporate Leadership Team to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

### Budget monitoring and control

- B.10** The Corporate Director Finance and Resources is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.
- B.11** It is the responsibility of members of Corporate Leadership Team to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Corporate Director Finance and Resources. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Corporate Director Finance and Resources to any problems.

## Resource allocation

- B.12** The Corporate Director Finance and Resources is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's policy framework.

## Preparation of the capital programme

- B.13** The Corporate Director Finance and Resources is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Cabinet before submission to the Council.

## Guidelines

- B.14** Guidelines on budget preparation are issued to members and members of Corporate Leadership Team by the Cabinet following agreement with the Corporate Director Finance and Resources. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- the Council plan
- available resources
- spending pressures
- best value and other relevant government guidelines
- other internal policy documents
- cross-cutting issues (where relevant)

## MAINTENANCE OF RESERVES

- B.15** It is the responsibility of the Corporate Director Finance and Resources to advise the Cabinet and/or the Council on prudent levels of reserves for the authority.

## **FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### INTRODUCTION

- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

## RISK MANAGEMENT

- C.2** The Audit & Risk Committee is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Corporate Director Finance and Resources is responsible for ensuring that proper insurance exists where appropriate.
- C.3** The Corporate Director Finance and Resources is responsible for preparing the authority's risk management policy statement, for promoting it throughout the authority and for advising the Cabinet on proper insurance cover where appropriate.

## INTERNAL CONTROL

- C.4** Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- C.5** The Corporate Director Finance and Resources is responsible for advising on effective systems of internal control. These arrangements need to ensure 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.6** It is the responsibility of members of Corporate Leadership Team to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## AUDIT REQUIREMENTS

- C.7** The Accounts and Audit Regulations 2015 issued by the Secretary of State for Communities and Local Government require every local authority to maintain an adequate and effective internal audit.
- C.8** The Public Sector Audit Appointments Ltd is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by part 5 of the Local Audit and Accountability Act 2014.
- C.9** The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## PREVENTING FRAUD AND CORRUPTION

- C.10** The Corporate Director Finance and Resources is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

## ASSETS

- C.11** Members of Corporate Leadership Team should ensure that records and 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.

## TREASURY MANAGEMENT

- C.12** The authority has adopted CIPFA's Code of Practice for Treasury Management in the Public Services.
- C.13** The Council is responsible for approving the treasury management policy statement setting out the matters detailed in chapter 6 of CIPFA's Code of Practice for Treasury Management in the Public Services. The policy statement is proposed to the Council by the Corporate Director Finance and Resources. The Corporate Director Finance and Resources has delegated responsibility for implementing and monitoring the statement.
- C.14** All money in the hands of the authority is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, the Corporate Director Finance and Resources.
- C.15** The Corporate Director Finance and Resources is responsible for reporting to the Audit & Risk Committee a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- C.16** All Cabinet decisions on borrowing, investment or financing shall be delegated to the Corporate Director Finance and Resources, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in the Public Services*.
- C.17** The Corporate Director Finance and Resources is responsible for reporting to the Audit & Risk Committee not less than four times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

## STAFFING

- C.18** The Council is responsible for determining how officer support for Cabinet and non-Cabinet roles within the authority will be organised.

**C.19** The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.



## **FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

- D.1** Sound systems and procedures are essential to an effective framework of accountability and control.

### **GENERAL**

- D.2** The Corporate Director Finance and Resources is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by members of the Corporate Leadership Team to the existing financial systems or the establishment of new systems must be approved by the Corporate Director Finance and Resources. However, members of the Corporate Leadership Team are responsible for the proper operation of financial processes in their own service areas.
- D.3** Any changes to agreed procedures by members of the Corporate Leadership Team to meet their own specific service needs should be agreed with the Corporate Director Finance and Resources.
- D.4** Members of Corporate Leadership Team should ensure that their staff receive relevant financial training that has been approved by the Corporate Director Finance and Resources.
- D.5** Members of the Corporate Leadership Team must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Members of the Corporate Leadership Team must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **INCOME AND EXPENDITURE**

- D.6** It is the responsibility of members of the Corporate Leadership Team to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the member of the Corporate Leadership Team's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

## PAYMENTS TO EMPLOYEES AND MEMBERS

- D.7** The Corporate Director Finance and Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

## TAXATION

- D.8** The Corporate Director Finance and Resources is responsible for advising members of Corporate Leadership Team, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

- D.9** The Corporate Director Finance and Resources is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## TRADING ACCOUNTS/BUSINESS UNITS

- D.10** It is the responsibility of the Corporate Director Finance and Resources to advise on the establishment and operation of trading accounts and business units.

## FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS

### INTRODUCTION

- E.1** The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### PARTNERSHIPS

- E.2** The Cabinet is responsible for approving frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The Cabinet can delegate its functions - including those relating to partnerships - to officers. The functions of the Cabinet, including a scheme of delegation, are approved by the Council and form Part 3 of this Constitution. Where functions are further delegated, the Cabinet remains accountable for them to the Council.
- E.4** The Authority is represented on partnership and external bodies at member and officer levels as appropriate.

- E.5** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to administration in partnerships that apply throughout the authority.
- E.6** The Corporate Director Finance and Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.7** Members of Corporate Leadership Team are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### EXTERNAL FUNDING

- E.8** The Corporate Director Finance and Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

#### WORK FOR THIRD PARTIES

- E.9** The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

#### Appendix A Financial Management

#### FINANCIAL MANAGEMENT STANDARDS

##### **Why is this important?**

- 1.01** All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

##### **Key controls**

- 1.02** The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the authority

- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and Council.

### **Responsibilities of the Corporate Director Finance and Resources**

- 1.03** To ensure the proper administration of the financial affairs of the authority.
- 1.04** To set the financial management standards and to monitor compliance with them.
- 1.05** To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.06** To advise on the key strategic controls necessary to secure sound financial management.
- 1.07** To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### **Responsibilities of members of the Corporate Leadership Team**

- 1.08** To promote the financial management standards set by the Corporate Director Finance and Resources in their service areas and to monitor adherence to the standards and practices, liaising as necessary with the Corporate Director Finance and Resources.
- 1.09** To promote sound financial practices in relation to the standards, performance and development of staff in their service areas.

### **MANAGING EXPENDITURE**

#### **Scheme of virement**

#### **Why is this important?**

- 1.10** The scheme of virement is intended to enable Cabinet, members of Corporate Leadership Team, Assistant Directors and their employees to manage budgets with a degree of flexibility within the overall policy and budget framework determined by the Council, and therefore to optimise the use of resources.

## Key controls

**1.11** Controls in relation to virement rely on achieving a balance between appropriate governance and flexibility. It is recognised that full Council approves the overall budget and priorities and must also approve any adjustments to this budget (supplementary estimates) and any re-alignment of priorities.

**1.12** The Table below details the approvals necessary for Virements of different types;

Description of Virement	Prior Approval Required by (all of)	Notification Required to
Supplementary Estimate changing the total resources to be spent by the Council in year	Full Council	
Virement switching resources between Cabinet member responsibilities	Relevant Cabinet Members Relevant Director/Assistant Directors Corporate Director Finance and Resources	Full Council
Virement switching resources between Service Teams with the same Cabinet Member having responsibility	Relevant Director/Assistant Director Corporate Director Finance and Resources	Relevant Cabinet Member
Virement switching resources between total employee costs and other subjective head either within or across Service Teams	Relevant Director/Assistant Directors Corporate Director Finance and Resources	Relevant Cabinet Member(s)
Virement Switching resources between Cost Centres within a Service Team	Relevant Service Team Manager	Relevant Director/Assistant Director Finance Team Manager
Virement switching resources between subjective headings within a Cost Centre (excluding employees above)	Relevant Budget Holder	Relevant Service Team Manager Finance Team Manager

**1.13** No virement relating to a specific financial year should be made after 31 March in that year

## ACCOUNTING POLICIES

### Why is this important?

- 1.19** The Corporate Director Finance and Resources is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC), for each financial year ending 31 March.

### Key controls

- 1.20** The key controls for accounting policies are:
- (a) systems of internal control are in place that ensure that financial transactions are lawful
  - (b) suitable accounting policies are selected and applied consistently
  - (c) proper accounting records are maintained
  - (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### Responsibilities of the Corporate Director Finance and Resources

- 1.21** To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:
- (a) separate accounts for capital and revenue transactions
  - (b) the basis on which debtors and creditors at year end are included in the accounts
  - (c) details on substantial provisions and reserves
  - (d) fixed assets
  - (e) depreciation
  - (f) capital charges
  - (g) work in progress
  - (h) stocks and stores
  - (i) deferred charges
  - (j) accounting for value added tax
  - (k) government grants
  - (l) leasing
  - (m) pensions

### Responsibilities of members of Corporate Leadership Team

- 1.22** To adhere to the accounting policies and guidelines approved by the Corporate Director Finance and Resources.

## ACCOUNTING RECORDS AND RETURNS

### Why is this important?

- 1.23** Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

### Key controls

- 1.24** The key controls for accounting records and returns are:
- (a) all Cabinet members, finance staff and budget managers operate within the required accounting standards and timetables
  - (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
  - (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
  - (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
  - (e) prime documents are retained in accordance with legislative and other requirements.

### Responsibilities of the Corporate Director Finance and Resources

- 1.25** To determine the accounting procedures and records for the authority. Where these are maintained outside the finance service area, the Corporate Director Finance and Resources should consult the member of the Corporate Leadership Team concerned.
- 1.26** To arrange for the compilation of all accounts and accounting records under his or her direction.

- 1.27** To comply with the following principles when allocating accounting duties:
- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
  - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 1.28** To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2015.
- 1.29** To ensure that all claims for funds including grants are made by the due date.
- 1.30** To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable.
- 1.31** To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

#### **Responsibilities of members of the Corporate Leadership Team**

- 1.32** To consult and obtain the approval of the Corporate Director Finance and Resources before making any changes to accounting records and procedures.
- 1.33** To comply with the policies referred to in paragraph 1.38 when allocating accounting duties.
- 1.34** To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 1.35** To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Corporate Director Finance and Resources.

#### **THE ANNUAL STATEMENT OF ACCOUNTS**

##### **Why is this important?**

- 1.36** The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit & Risk Committee is responsible for approving the statutory annual statement of accounts.



## **Key controls**

**1.37** The key controls for the annual statement of accounts are:

- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Corporate Director Finance and Resources
- the authority's statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).

## **Responsibilities of the Corporate Director Finance and Resources**

**1.38** To select suitable accounting policies and to apply them consistently.

**1.39** To make judgments and estimates that are reasonable and prudent.

**1.40** To comply with the Code of Practice on Local Authority Accounting in the United Kingdom.

**1.41** To sign and date the statement of accounts, stating that it gives a true and fair view of the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March 20xx.

**1.42** To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

## **Responsibilities of members of the Corporate Leadership Team**

**1.43** To comply with accounting guidance provided by the Corporate Director Finance and Resources and to supply the Corporate Director Finance and Resources with information when required.

## **Appendix B Financial Planning**

### **PERFORMANCE PLANS**

#### **Why is this important?**

**2.01** Each local authority has a statutory responsibility to publish various performance plans, crime reduction strategies, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

## **Key controls**

- 2.02** The key controls for performance plans are:
- (a) to ensure that all relevant plans are produced and that they are consistent
  - (b) to produce plans in accordance with statutory requirements
  - (c) to meet the timetables set
  - (d) to ensure that all performance information is accurate, complete and up to date
  - (e) to provide improvement targets which are meaningful, realistic and challenging.

### **Responsibilities of the Corporate Director Finance and Resources**

- 2.03** To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- 2.04** To contribute to the development of corporate and service targets and objectives and performance information.
- 2.05** To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- 2.06** To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

### **Responsibilities of members of the Corporate Leadership Team**

- 2.07** To contribute to the development of performance plans in line with statutory requirements.
- 2.08** To contribute to the development of corporate and service targets and objectives and performance information.

## **BUDGETING**

Format of the budget

### **Why is this important?**

- 2.09** The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

## **Key controls**

- 2.10** The key controls for the budget format are:
- (a) the format complies with all legal requirements
  - (b) the format complies with CIPFA's Service Reporting Code of Practice for Local Authorities
  - (c) the format reflects the accountabilities of service delivery.

## **Responsibilities of the Corporate Director Finance and Resources**

- 2.11** To advise the Cabinet on the format of the budget that is approved by the Council.

## **Responsibilities of members of the Corporate Leadership Team**

- 2.12** To comply with accounting guidance provided by the Corporate Director Finance and Resources.

Revenue budget preparation, monitoring and control

## **Why is this important?**

- 2.13** Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 2.14** By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- 2.15** For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the member of the Corporate Leadership Team.

## **Key controls**

- 2.16** The key controls for managing and controlling the revenue budget are:

- (a) budget managers should be responsible only for income and expenditure that they can influence
- (b) there is a nominated budget manager for each cost centre heading
- (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) budget managers follow an approved certification process for all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budgets.

### **Responsibilities of the Corporate Director Finance and Resources**

**2.17** To establish an appropriate framework of budgetary management and control that ensures that:

- (a) budget management is exercised within annual cash limits unless the Council agrees otherwise.
- (b) each member of the Corporate Leadership Team has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
- (c) expenditure is committed only against an approved budget head.
- (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial procedure rules.
- (e) each cost centre has a single named manager, determined by the relevant member of the Corporate Leadership Team. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
- (f) significant variances from approved budgets are investigated and reported by budget managers regularly.

**2.18** To administer the authority's scheme of virement.

- 2.19** To submit reports to the Cabinet and to the Council, in consultation with the relevant member of the Corporate Leadership Team, where a member of the Corporate Leadership Team is unable to balance expenditure and resources within existing approved budgets under his or her control.
- 2.20** To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

### **Responsibilities of members of the Corporate Leadership Team**

- 2.21** To maintain budgetary control within their service areas, in adherence to the principles in 2.17, and to ensure that all income and expenditure is properly recorded and accounted for.
- 2.22** To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the member of the Corporate Leadership Team (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 2.23** To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.24** To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 2.25** To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the Corporate Director Finance and Resources.
- 2.26** To ensure prior approval by the Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
- (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies or cease existing policies
  - (c) materially extend or reduce the authority's services.
- 2.27** To ensure compliance with the scheme of virement.

- 2.28** To agree with the relevant member of the Corporate Leadership Team where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or member of Corporate Leadership Team level of service activity.

#### Budgets and medium-term planning

#### **Why is this important?**

- 2.29** The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.
- 2.30** The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.
- 2.31** Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

#### **Key controls**

- 2.32** The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
  - (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered
  - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

#### **Responsibilities of the Corporate Director Finance and Resources**

- 2.33** To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

- 2.34** To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Council, and after consultation with the Cabinet and members of the Corporate Leadership Team.
- 2.35** To prepare and submit reports to the Cabinet on the aggregate spending plans of service areas and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 2.36** To advise on the medium-term implications of spending decisions.
- 2.37** To encourage the best use of resources and value for money by working with members of the Corporate Leadership Team to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.38** To advise the Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

#### **Responsibilities of members of the Corporate Leadership Team**

- 2.39** To prepare estimates of income and expenditure, in consultation with the Corporate Director Finance and Resources, to be submitted to the Cabinet.
- 2.40** To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Corporate Director Finance and Resources in accordance with the Council's general directions.
- 2.41** To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42** In consultation with the Corporate Director Finance and Resources and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.
- 2.43** When drawing up draft budget requirements, to have regard to:
  - (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements

- (c) policy requirements as defined by the Council in the approved policy framework
- (d) initiatives already under way.

Resource allocation

### **Why is this important?**

**2.44** A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

### **Key controls**

**2.45** The key controls for resource allocation are:

- (a) resources are acquired in accordance with the law and using an approved authorisation process
- (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
- (c) resources are securely held for use when required
- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### **Responsibilities of the Corporate Director Finance and Resources**

**2.46** To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

**2.47** To assist in the allocation of resources to budget managers.

### **Responsibilities of members of the Corporate Leadership Team**

**2.48** To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.

**2.49** To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

Capital programmes



## **Why is this important?**

- 2.50** Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.51** The Prudential Code places controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

## **Key controls**

### **2.52 The key controls for capital programmes are:**

- (a) specific approval by the Council for the programme of capital expenditure
- (b) expenditure on capital schemes is subject to the approval of the Corporate Director Finance and Resources
- (c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Cabinet
- (d) proposals for improvements and alterations to buildings must be approved by the appropriate member of the Corporate Leadership Team
- (e) the development and implementation of asset management plans
- (f) accountability for each proposal is accepted by a named manager
- (g) monitoring of progress in conjunction with expenditure and comparison with approved budget.

## **Responsibilities of the Corporate Director Finance and Resources**

- 2.53** To prepare capital estimates jointly with members of the Corporate Leadership Team and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Council.
- 2.54** To prepare and submit quarterly reports to the Asset Strategy Project Board on the projected scheme expenditure compared with the approved estimates.

- 2.55** To prepare and submit half yearly (Q1 and Q3) Finance and Capital Programme update reports to the Cabinet.
- 2.56** To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Corporate Director Finance and Resources, having regard to government regulations and accounting requirements.
- 2.57** To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than 10% of the original sum.

#### **Responsibilities of members of the Corporate Leadership Team**

- 2.58** To comply with guidance concerning capital schemes and controls issued by the Corporate Director Finance and Resources.
- 2.59** To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Corporate Director Finance and Resources.
- 2.60** To prepare reports on expenditure on their projects for inclusion in the report of the Corporate Director Finance and Resources to the Asset Strategy Project Board.
- 2.61** To ensure that adequate records are maintained for all capital contracts.
- 2.62** To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Corporate Director Finance and Resources, where required.
- 2.63** To prepare and submit reports, jointly with the Corporate Director Finance and Resources, to the Cabinet, of any variation in contract costs greater than the approved limits. The Cabinet may meet cost increases of up to 10% by virement from savings elsewhere within their capital programme.
- 2.64** To prepare and submit reports, jointly with the Corporate Director Finance and Resources, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than 10% of the original sum.
- 2.65** To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Corporate Director Finance and Resources and, if applicable, approval of the scheme through the capital programme.

## MAINTENANCE OF RESERVES

### Why is this important?

- 2.66** The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### Key controls

- 2.67** To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC) and agreed accounting policies.
- 2.68** For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 2.69** Authorisation and expenditure from reserves by the appropriate member of the Corporate Leadership Team or Assistant Director in consultation with the Corporate Director Finance and Resources.

### Responsibilities of the Corporate Director Finance and Resources

- 2.70** To advise the Cabinet and/or the Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.

### Responsibilities of members of the Corporate Leadership Team

- 2.71** To ensure that resources are used only for the purposes for which they were intended.

## Appendix C Risk Management and Control of Resources

### RISK MANAGEMENT

#### Why is this important?

- 3.01** All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an

organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

- 3.02** It is the overall responsibility of the Audit & Risk Committee to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

### **Key controls**

- 3.03** The key controls for risk management are:

- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
- (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
- (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
- (d) provision is made for losses that might result from the risks that remain
- (e) procedures are in place to investigate claims within required timescales
- (f) acceptable levels of risk are determined and insured against where appropriate
- (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

### **Responsibilities of the Corporate Director Finance and Resources**

- 3.04** To prepare and promote the authority's risk management policy statement.
- 3.05** To develop risk management controls in conjunction with other members of Corporate Leadership Team.
- 3.06** To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.

- 3.07** To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

### **Responsibilities of members of the Corporate Leadership Team**

- 3.08** To notify the Corporate Director Finance and Resources immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Corporate Director Finance and Resources or the authority's insurers.
- 3.09** To take responsibility for risk management, having regard to advice from the Corporate Director Finance and Resources and other specialist officers (e.g. crime prevention, fire prevention, health and safety).
- 3.10** To ensure that there are regular reviews of risk within their service areas.
- 3.11** To notify the Corporate Director Finance and Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 3.12** To consult the Corporate Director Finance and Resources and the Director Legal & Governance on the terms of any indemnity that the authority is requested to give.
- 3.13** To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

### **INTERNAL CONTROLS**

#### **Why is this important?**

- 3.14** The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 3.15** The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 3.16** The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 3.17** The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations

- (b) reliable financial information and reporting
- (c) compliance with laws and regulations
- (d) risk management.

### **Key controls**

#### **3.18 The key controls and control objectives for internal control systems are:**

- (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the UK Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN) and with any other statutory obligations and regulations.

### **Responsibilities of the Corporate Director Finance and Resources**

- 3.19** To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of members of Corporate Leadership Team**

- 3.20** To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 3.21** To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Corporate Director Finance and Resources. Members of the Corporate Leadership Team should also be responsible for removing controls that

are unnecessary or not cost or risk effective – for example, because of duplication.

- 3.22** To ensure staff have a clear understanding of the consequences of lack of control.

## AUDIT REQUIREMENTS

### Internal audit

#### **Why is this important?**

- 3.23** The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 (SI 2015/234), regulation 6, more specifically require that a “relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control”.

- 3.24** Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. In order to maintain its independence the service is managed by the Chief Executive.

#### **Key controls**

- 3.25** The key controls for internal audit are:
- (a) that it is independent in its planning and operation
  - (b) the head of internal audit has direct access to the Head of Paid Service, Corporate Director Finance and Resources, all levels of management and directly to elected members
  - (c) the internal auditors comply with the UK Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN).

#### **Responsibilities of the Corporate Director Finance and Resources**

- 3.26** To ensure that internal auditors have the authority to:
- (a) access authority premises at reasonable times

- (b) access all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration
  - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
  - (e) access records belonging to third parties, such as contractors, when required
  - (f) directly access the Head of Paid Service, the Cabinet and Audit & Risk Committee.
- 3.27** To review the strategic and annual audit plans prepared by the head of internal audit, which take account of the characteristics and relative risks of the activities involved.
- 3.28** To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

#### **Responsibilities of members of the Corporate Leadership Team**

- 3.29** To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 3.30** To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 3.31** To consider and respond promptly to recommendations in audit reports.
- 3.32** To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 3.33** To notify the Corporate Director Finance and Resources immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the member of the Corporate Leadership Team should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.34** To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the head of internal audit prior to implementation.



## External audit

### Why is this important?

- 3.35** The Public Sector Audit Appointments Ltd is responsible for appointing external auditors to each local authority. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 3.36** The basic duties of the external auditor are defined in the Local Audit and Accountability Act 2014. In particular, part 5 of the 2014 Act requires the Comptroller and Auditor General to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in April 2015 sets out the auditor's principal objectives which are to review and report upon, to the extent required by the relevant legislation and the requirements of the Code, the audited body's:
- (a) financial statements
  - (b) arrangements for securing economy, efficiency and effectiveness in its use of resources.
- 3.37** The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts gives a 'true and fair view' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### Key controls

- 3.38** External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

### Responsibilities of the Corporate Director Finance and Resources

- 3.39** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 3.40** To ensure there is effective liaison between external and internal audit.
- 3.41** To work with the external auditor and advise the Council, Cabinet and members of the Corporate Leadership Team on their responsibilities in relation to external audit.

### Responsibilities of members of Corporate Leadership Team

- 3.42** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- 3.43** To ensure that all records and systems are up to date and available for inspection.

## PREVENTING FRAUD AND CORRUPTION

### **Why is it this important?**

- 3.44** The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- 3.45** The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 3.46** The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

### **Key controls**

- 3.47 The key controls regarding the prevention of financial irregularities are that:**
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
  - (b) all members and staff act with integrity and lead by example
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
  - (d) high standards of conduct are promoted amongst members by the Standards and Resources Committee
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
  - (f) whistle blowing procedures are in place and operate effectively
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

- 3.48 To develop and maintain an anti-fraud and anti-corruption policy.
- 3.49 To maintain adequate and effective internal control arrangements.
- 3.50 To ensure that all suspected irregularities are reported to the chief internal auditor, the Head of Paid Service, the Cabinet and the Audit & Risk Committee.

#### **Responsibilities of members of the Corporate Leadership Team**

- 3.51 To ensure that all suspected irregularities are reported to the chief internal auditor.
- 3.52 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 3.53 To ensure that where financial impropriety is discovered, the Corporate Director Finance and Resources is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 3.54 To ensure that any interests are entered into the Council's register of interests.

#### ASSETS

##### Security

#### **Why is this important?**

- 3.55 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

#### **Key controls**

- 3.56 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
  - (a) resources are used only for the purposes of the authority and are properly accounted for

- (b) resources are available for use when required
- (c) resources no longer required are disposed of in accordance with the law and the procedure rules of the authority so as to maximise benefits
- (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
- (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

### **Responsibilities of the Corporate Director Finance and Resources**

**3.57** To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000 (equipment) and £25,000 (land and property). The function of the asset register is to provide the authority with information about fixed assets so that they are:

- safeguarded
- used efficiently and effectively
- adequately maintained.

**3.58** To receive the information required for accounting, costing and financial records from each member of the Corporate Leadership Team.

**3.59** To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC).

### **Responsibilities of members of the Corporate Leadership Team**

**3.60** To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the member of the Corporate Leadership Team in consultation with the Corporate Director Finance and Resources, has been established as appropriate.

- 3.61** To ensure the proper security of all buildings and other assets under their control.
- 3.62** Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the member of the Corporate Leadership Team and the Corporate Director Finance and Resources to the Director Legal & Governance.
- 3.63** To pass title deeds to the appropriate officer who is responsible for custody of all title deeds.
- 3.64** To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 3.65** To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 3.66** To ensure that the service area maintains a register of moveable assets in accordance with arrangements defined by the Corporate Director Finance and Resources.
- 3.67** To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 3.68** To consult the Corporate Director Finance and Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 3.69** To ensure cash holdings on premises are kept to a minimum.
- 3.70** To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Corporate Director Finance and Resources as soon as possible.
- 3.71** To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Corporate Director Finance and Resources, the Cabinet agrees otherwise.
- 3.72** To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

Inventories

- 3.73** To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £1,000 in value.
- 3.74** To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 3.75** To make sure that property is only used in the course of the authority's business, unless the member of the Corporate Leadership Team concerned has given permission otherwise.

#### Stocks and stores

- 3.76** To make arrangements for the care and custody of stocks and stores in the service area.
- 3.77** To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All significant discrepancies should be investigated and pursued to a satisfactory conclusion.
- 3.78** To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of a predetermined limit.
- 3.79** To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Corporate Director Finance and Resources, the Cabinet decides otherwise in a particular case.
- 3.80** To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.

#### Asset disposal

##### **Why is this important?**

- 3.81** It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the procedure rules of the authority.

##### **Key controls**

- 3.82** Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the

authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

- 3.83** Procedures protect staff involved in the disposal from accusations of personal gain.

#### **Responsibilities of the Corporate Director Finance and Resources**

- 3.84** To issue guidelines representing best practice for disposal of assets.
- 3.85** To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

#### **Responsibilities of members of the Corporate Leadership Team**

- 3.86** To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- 3.87** To ensure that income received for the disposal of an asset is properly banked and coded.

#### **TREASURY MANAGEMENT**

##### **Why is this important?**

- 3.88** Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

##### **Key controls**

- 3.89** That the authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management* and with the authority's treasury policy statement.

#### **Responsibilities of Corporate Director Finance and Resources – treasury management and banking**

- 3.90** To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.
- 3.91** To report four times a year on treasury management activities to the Audit & Risk Committee.

- 3.92** To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Corporate Director Finance and Resources.

**Responsibilities of members of the Corporate Leadership Team– treasury management and banking**

- 3.93** To follow the instructions on banking issued by the Corporate Director Finance and Resources.

**Responsibilities of Corporate Director Finance and Resources – investments and borrowing**

- 3.94** To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Council.
- 3.95** To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority’s ownership are held in the custody of the appropriate member of the Corporate Leadership Team.
- 3.96** To effect all borrowings in the name of the authority.
- 3.97** To act as the authority’s registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

**Responsibilities of members of the Corporate Leadership Team – investments and borrowing**

- 3.98** To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the Corporate Director Finance and Resources.

**Responsibilities of members of the Corporate Leadership Team – trust funds and funds held for third parties**

- 3.99** To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Corporate Director Finance and Resources, unless the deed otherwise provides.
- 3.100** To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Corporate Director Finance and Resources, and to maintain written records of all transactions.
- 3.101** To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.



### **Responsibilities of the Corporate Director Finance and Resources – imprest accounts**

- 3.102** To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 3.103** To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.104** To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

### **Responsibilities of members of the Corporate Leadership Team – imprest accounts**

- 3.105** To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
  - (b) make adequate arrangements for the safe custody of the account
  - (c) produce upon demand by the Corporate Director Finance and Resources cash and all vouchers to the total value of the imprest amount
  - (d) record transactions promptly
  - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
  - (f) provide the Corporate Director Finance and Resources with a certificate of the value of the account held at 31 March each year
  - (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
  - (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Corporate Director Finance and Resources for the amount advanced to him or her.

### **Why is this important?**

**3.106** In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **Key controls**

**3.107** The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

### **Responsibilities of the Corporate Director Finance and Resources**

**3.108** To ensure that budget provision exists for all existing and new employees.

**3.109** To act as an advisor to members of the Corporate Leadership Team on areas such as National Insurance and pension contributions, as appropriate.

### **Responsibilities of members of the Corporate Leadership Team**

**3.110** To produce an annual staffing budget in consultation with the Corporate Director Finance and Resources.

**3.111** To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

**3.112** To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

**3.113** To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

**3.114** To ensure that the Assistant Director Organisation and People Development and the Corporate Director Finance and Resources are immediately informed if the staffing budget is likely to be materially over or underspent.

## **Appendix D Financial Systems and Procedures**

### GENERAL

#### **Why is this important?**

- 4.01** Service areas have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Service areas are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 4.02** The Corporate Director Finance and Resources has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

#### **Key controls**

The key controls for systems and procedures are:

- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from target, plans and budgets that require management attention
- (d) operating systems and procedures are secure.

#### **Responsibilities of the Corporate Director Finance and Resources**

- 4.03 To make arrangements for the proper administration of the authority's financial affairs, including to:**
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the authority's financial affairs
  - (d) approve any new financial systems to be introduced
  - (e) approve any changes to be made to existing financial systems

## **Responsibilities of members of the Corporate Leadership Team**

- 4.04** To ensure that accounting records are properly maintained and held securely.
- 4.05** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Corporate Director Finance and Resources.
- 4.06** To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 4.07** To incorporate appropriate controls to ensure that, where relevant:
  - (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.
- 4.08** To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 4.09** To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 4.10** To ensure that systems are documented and staff trained in operations.
- 4.11** To consult with the Corporate Director Finance and Resources before changing any existing system or introducing new systems.
- 4.12** To establish a scheme of delegation identifying officers authorised to act upon the member of the Corporate Leadership Team's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 4.13** To supply lists of authorised officers, with specimen signatures and financial limits, to the Corporate Director Finance and Resources, together with any subsequent variations.

- 4.14** To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 4.15** To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 4.16** To ensure that relevant standards and guidelines for computer systems issued by the member of the Corporate Leadership Team are observed.
- 4.17** To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.18** To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
  - (a) only software legally acquired and installed by the authority is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## INCOME AND EXPENDITURE

### Income

#### **Why is this important?**

- 4.19** Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cash flow and also avoids the time and cost of administering debts.

#### **Key controls**

##### **4.20 The key controls for income are:**

- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery

- (c) all money received by an employee on behalf of the authority is paid without delay to the Corporate Director Finance and Resources or, as he or she directs, to the authority's bank account and properly recorded. The responsibility for cash collection should be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
- (d) effective action is taken to pursue non-payment within defined timescales
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales
- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

#### **Responsibilities of the Corporate Director Finance and Resources**

- 4.21** To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 4.22** To order and supply to service areas all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 4.23** To agree the write-off of bad debts up to an approved limit in each case and to refer larger sums to the appropriate member of the Cabinet.
- 4.24** To approve all debts to be written off in consultation with the relevant member of the Corporate Leadership Team and to keep a record of all sums written off up to the approved limit of £1,000 and to adhere to the requirements of the Accounts and Audit Regulations 2015.
- 4.25** To obtain the approval of the appropriate member of the Cabinet in consultation with the relevant member of the Corporate Leadership Team for writing off debts in excess of the approved limit of £1,000.

- 4.26** To ensure that appropriate accounting adjustments are made following write-off.

#### **Responsibilities of members of the Corporate Leadership Team**

- 4.27** To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 4.28** To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 4.29** To authorise appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 4.30** To issue official receipts or to maintain other documentation for income collection.
- 4.31** To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 4.32** To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.33** To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 4.34** To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 4.35** To ensure income is not used to cash personal cheques or other payments.
- 4.36** To supply the Corporate Director Finance and Resources with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Corporate Director Finance and Resources to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, members of the Corporate Leadership Team should use established performance management systems to monitor recovery of income and flag up areas of concern to the Corporate Director Finance and Resources. Members of the Corporate Leadership Team have a responsibility to assist the Corporate Director Finance and Resources in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.

- 4.37** To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 4.38** To recommend to the Corporate Director Finance and Resources all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 4.39** To obtain the approval of the Corporate Director Finance and Resources when writing off debts in excess of the approved limit, and the approval of the appropriate member of the Cabinet where required.
- 4.40** To notify the Corporate Director Finance and Resources of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Corporate Director Finance and Resources and not later than 15 April.

Ordering and paying for work, goods and services

#### **Why is this important?**

- 4.41** Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. Regard shall be had at all times to the Council's procurement strategy. These procedures should be read in conjunction with the authority's Contract Procedure Rules on tenders and contracts.

#### **General**

- 4.42** Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 4.43** Official orders must be in a form approved by the Corporate Director Finance and Resources. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, stationery ordered over the internet in line with the contract for such, purchases made in accordance with the purchasing card scheme, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Corporate Director Finance and Resources.



- 4.44** Each order must conform to the guidelines approved by the Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Corporate Director Finance and Resources.
- 4.45** Apart from petty cash the normal method of payment from the authority shall be by BACS, CHAPS or cheque, drawn on the authority's bank account by the Corporate Director Finance and Resources. The use of direct debit shall require the prior agreement of the Corporate Director Finance and Resources.
- 4.46** Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key controls**

- 4.47** The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons and are correctly recorded
  - (b) all goods and services shall be ordered in accordance with the authority's code of practice for tenders and contracts unless they are purchased from sources within the authority
  - (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
  - (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
  - (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
  - (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
  - (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
  - (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

## **Responsibilities of the Corporate Director Finance and Resources**

- 4.48** To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 4.49** To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 4.50** To approve the form of official orders and associated terms and conditions.
- 4.51** To make payments from the authority's funds on the member of the Corporate Leadership Team's authorisation that the expenditure has been duly incurred in accordance with financial procedure rules.
- 4.52** To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 4.53** To make payments to contractors on the certificate of the appropriate member of the Corporate Leadership Team, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 4.54** To provide advice and encouragement on making payments by the most economical means.
- 4.55** To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

## **Responsibilities of members of the Corporate Leadership Team**

- 4.56** To ensure that unique official orders are used for all goods and services, other than the exceptions specified in 4.43.
- 4.57** To ensure that orders are only used for goods and services provided to the service area. Individuals must not use official orders to obtain goods or services for their private use.
- 4.58** To ensure that only those staff authorised by him or her place orders and to maintain an up-to-date list of such authorised staff. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.

- 4.59** To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 4.60** To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that discounts have been taken where available
  - (h) that appropriate entries will be made in accounting records.
- 4.61** To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who placed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 4.62** To ensure that the service area maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Corporate Director Finance and Resources.
- 4.63** To ensure that where payments are to be made on a photocopied or faxed invoice, the invoice is certified by the Corporate Director Finance and Resources or some other officer authorised by the Corporate Director Finance and Resources.
- 4.64** To encourage suppliers of goods and services to receive payment by the most economical means for the authority, generally BACS. It is essential, however, that payments made by direct debit have the prior approval of the Corporate Director Finance and Resources.
- 4.65** To ensure that the service area obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Corporate Director Finance and Resources ,

which are in line with best value principles and contained in the authority's contract procedure rules.

- 4.66** To utilise the central purchasing procedures established by the Corporate Director Finance and Resources in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the authority's contract procedure rules and will cover:
- (a) authorised officers and the extent of their authority
  - (b) advertisement for tenders
  - (c) selection of tenderers
  - (d) compliance with UK and EC legislation and regulations
  - (e) procedures for the submission, receipt, opening and recording of tenders
  - (f) the circumstances where financial or technical evaluation is necessary
  - (g) procedures for negotiation
  - (h) acceptance of tenders
  - (i) the form of contract documentation
  - (j) cancellation clauses in the event of corruption or bribery
  - (k) contract records
- 4.67** To ensure that employees are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).
- 4.68** To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Corporate Director Finance and Resources. This is to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 4.69** To notify the Corporate Director Finance and Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Corporate Director Finance and Resources and, in any case, not later than 15 April.
- 4.70** With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Corporate Director Finance and Resources the systems and procedures to be

adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

- 4.71** To notify the Corporate Director Finance and Resources immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 4.72** To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

Payments to employees and members

**Why is this important?**

- 4.73** Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

**Key controls**

- 4.74** The key controls for payments to employees and members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
- starters
  - leavers
  - variations
  - enhancements
- and that payments are made on the basis of timesheets or claims
- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
- (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (d) that HM Revenue and Customs regulations are complied with.

**Responsibilities of the Corporate Director Finance and Resources**

- 4.75** To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 4.76** To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.77** To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.78** To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.79** To ensure that all salaries and wages are paid monthly by BACS, this being the most economical means.
- 4.80** To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

#### **Responsibilities of members of the Corporate Leadership Team**

- 4.81** To ensure appointments are made in accordance with the procedure rules of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 4.82** To notify the Corporate Director Finance and Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Corporate Director Finance and Resources.
- 4.83** To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.84** To send an up-to-date list of the names of officers authorised to sign records to the Corporate Director Finance and Resources, together with specimen signatures.
- 4.85** To ensure that payroll transactions are processed only through the payroll system. Members of the Corporate Leadership Team should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The HM Revenue and Customs applies a tight definition for employee status, and in cases of

doubt, advice should be sought from the Corporate Director Finance and Resources.

- 4.86** To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Corporate Director Finance and Resources is informed where appropriate.
- 4.87** To ensure that the Corporate Director Finance and Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 4.88** To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

#### **Responsibilities of members**

- 4.89** To submit claims for members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

#### **TAXATION**

##### **Why is this important?**

- 4.90** Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

##### **Key controls**

- 4.91** The key controls for taxation are:
  - (a) budget managers are provided with relevant information and kept up to date on tax issues
  - (b) budget managers are instructed on required record keeping
  - (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
  - (d) records are maintained in accordance with instructions
  - (e) returns are made to the appropriate authorities within the stipulated timescale.

## **Responsibilities of the Corporate Director Finance and Resources**

- 4.92** To complete all HM Revenue and Customs returns regarding PAYE.
- 4.93** To complete a monthly return of VAT inputs and outputs to HM Revenue and Customs.
- 4.94** To provide details to the HM Revenue and Customs regarding the construction industry tax deduction scheme.
- 4.95** To maintain up-to-date guidance for authority employees on taxation issues in the accounting manual and the tax manual.

## **Responsibilities of the members of the Corporate Leadership Team**

- 4.96** To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations.
- 4.97** To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 4.98** To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 4.99** To follow the guidance on taxation issued by the Corporate Director Finance and Resources in the authority's accounting manual and VAT manual.

## **Appendix E External Arrangements**

### **PARTNERSHIPS**

#### **Why is this important?**

- 5.01** Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 5.02** Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and



community organisations. Local authorities will be measured by what they achieve in partnership with others.

## **General**

**5.03** The main reasons for entering into a partnership are:

- (a) the desire to find new ways to share risk
- (b) the ability to access new resources
- (c) to provide new and better ways of delivering services
- (d) to forge new relationships.

**5.04** A partner is defined as either:

- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project or
- (b) a body whose nature or status give it a right or obligation to support the project.

**5.05** Partners participate in projects by:

- (a) acting as a project deliverer or sponsor, solely or in concert with others
- (b) acting as a project funder or part funder
- (c) being the beneficiary group of the activity undertaken in a project.

**5.06** Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- (c) be open about any conflict of interests that might arise
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project.

## **Key controls**

**5.07** The key controls for authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the authority's financial and contract procedure rules
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibilities of the Corporate Director Finance and Resources**

- 5.08** To advise on effective controls that will ensure that resources are not wasted.
- 5.09** To advise on the key elements of funding a project. They include:
  - (a) a scheme appraisal for financial viability in both the current and future years
  - (b) risk appraisal and management
  - (c) resourcing, including taxation issues
  - (d) audit, security and control requirements
  - (e) carry-forward arrangements.
- 5.10** To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of members of the Corporate Leadership Team**

- 5.11** To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Corporate Director Finance and Resources.
- 5.12** To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Corporate Director Finance and Resources.
- 5.13** To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- 5.14** To ensure that all agreements and arrangements are properly documented.
- 5.15** To provide appropriate information to the Corporate Director Finance and Resources to enable a note to be entered into the authority's statement of accounts concerning material items.

## EXTERNAL FUNDING

### Why is this important?

**5.16** External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### Key controls

**5.17** The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### Responsibilities of the Corporate Director Finance and Resources

**5.18** To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

**5.19** To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

**5.20** To ensure that audit requirements are met.

### Responsibilities of members of the Corporate Leadership Team

**5.21** To ensure that all claims for funds are made by the due date.

**5.22** To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## WORK FOR THIRD PARTIES

### Why is this important?

**5.23** Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a service area to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.

### Key controls

**5.24** The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Corporate Director Finance and Resources
- (b) to ensure that contracts are drawn up using guidance provided by the Chief Finance Officer and that the formal approvals process is adhered to
- (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### Responsibilities of Corporate Director Finance and Resources

**5.25** To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### Responsibilities of members of the Corporate Leadership Team

- 5.26** To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- 5.27** To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Corporate Director Finance and Resources.
- 5.28** To ensure that appropriate insurance arrangements are made.
- 5.29** To ensure that the authority is not put at risk from any bad debts.
- 5.30** To ensure that no contract is subsidised by the authority.
- 5.31** To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 5.32** To ensure that the service area/unit has the appropriate expertise to undertake the contract.

- 5.33** To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 5.34** To ensure that all contracts are properly documented.
- 5.35** To provide appropriate information to the Corporate Director Finance and Resources to enable a note to be entered into the statement of accounts.

**SECTION 7**  
**CONTRACT PROCEDURE RULES**

**Contents**

## Definitions

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## Definitions

**Central Purchasing Body** is a Contracting Authority in its own right that concludes pre-procured contracts for Works, Supplies or Services and allows access to these contracts by the wider public sector.

**Crown Commercial Services** is an executive agency and trading fund of the Cabinet Office of the UK Government. The CCS is responsible for improving government commercial and procurement activity and bringing together policy, advice and direct buying; providing commercial Services to the public sector and saving money for the taxpayer

**Competitive dialogue procedure** is used when the Council cannot provide a precise Specification and where there is scope to negotiate about what Services companies can provide. The purpose of this procedure is to negotiate on the Specification of the project and not on the price.

**Concession Contract** is a Contract between a provider and the Council that gives the company the right to operate (and profit from) a specific business within the Council's jurisdiction, subject to certain conditions.

**Concession Contracts Regulations** came into force on 18th April 2016 for the regulation of certain service and Works concession contracts (see Procurement Values) where consideration given to the provider is that the provider is permitted to exploit the Works or Services that are the subject of the contract (together with payment if desired).

**Consortium** means an association of several business organisations who are legally bound together to work towards a commonly held aim.

**Constitution** is the Council's document that contains the rules and procedures for making decisions and managing the Council's business.

**Contract** is, for the purposes of these CPRs, any agreement (whether in writing or not) between the Council and one or more other parties in respect of the acquisition or sale of Works, Supplies or Services for payment or otherwise. Throughout these CPRs, also read 'Contract' in context of a framework agreement.

**Contracting Authority** is a defined term in the Public Contracts Regulations 2015 which means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law and includes central government authorities.

**Contracts Finder** is the Government's online procurement portal for both providers and Contracting Authorities. For the former it presents new procurement opportunities; for the latter it is the mandatory portal to advertise their new opportunities and contract award information.

**Contracts Register** is the list of Contracts, held by the Council, and entered into by the Council over a value of £500.

**Council** means South Staffordshire District Council the legal title of the Council.



**CPRs** are the Contract Procedure Rules These CPRs are part of the Council's Constitution and are the procedural rules for any procurement carried out for the Council.

**Default Notice** is used by the Council to provide written notice that a provider is in breach of contract.

**Electronic procurement** means procurement using the internet, including online e-auctions and buying portals on the internet. The Council can take advantage of reduced minimum time periods when the Council arranges its contracts under the PCR 2015 regime and sends its documents electronically. Officers can get advice and guidance on this from a procurement advisor.

**Extended Leadership Team member** is the collective term when referring to one of the following Council leadership roles, Chief Executive; Corporate Director; Director; Assistant Director; or Corporate Support Manager.

**Find a Tender Service (FTS)** is the Government portal for publishing all public sector tender opportunities which have Contract spends over the Government Thresholds.

**Framework Agreement** means an agreement or other arrangement which sets the terms (in particular the price and, where appropriate, quality) under which the provider will enter into one or more contracts or a series of contracts with the Council. This may also be referred to as a continuous contract or a standing offer.

**Government Thresholds** are the contract (spend) triggers that will apply to public procurement exercises run under the Public Contracts Regulations, and the Concession Contracts Regulations.

**Invitation to Tender** is a tender document which invites providers to bid for the provision of Works, Supplies or Services to the Council.

**Key Influencer** is an Officer within a procurement project who, by virtue of their normal duties in that project, could influence the choice of provider.

**Legal Advisor** is an Officer allocated by the Director Legal & Governance (Monitoring Officer)

**Light Touch Regime** Contracts for health, social, prison, postal, certain legal Services and other community Services, which effectively replaced the previous Part B Services in historic Public Contracts Regulations.

**Lowest tender in price terms** for accepting a tender means either the lowest cost or, if the evaluation is not just based on price, the most economically advantageous tender score after an evaluation.

**MEAT** is the most economically advantageous tender which is a contract awarded using a blend of both price and quality criteria.

**Monitoring Officer** as detailed in the Council's Constitution, a designated Officer of the Council with the unique role to ensure that the Council, its Officers and Elected Councillors maintain the highest standards in all they do.

**Offer and Acceptance** is the process of awarding a Contract which is usually conducted without signature.

**Officer** is any employee of the Council.

**Open procedure** This means an advert will be placed in the Find A Tender Service (FTS) and relevant press and trade journals. The tender will be open to anyone who shows an interest.

**Pre-Qualification** is the stage used to assess providers for inclusion in the shortlist of providers who will be invited to submit a final tender. It specifically evaluates the suitability of potential providers in relation to their technical knowledge and experience, capability and financial and economic standing.

**Procurement / Purchasing Card / 'pCard'** is an efficient means of ordering and paying using a bespoke credit card issued by the Council.

**Procurement Advisor** is the strategic team of Officers in the Council qualified to advise on such matters

**Procurement Lead** is a person under the Council's scheme of delegation for procurement, or been granted authority by the Council, to undertake the buying of goods, work and/or services on behalf of the Council.

**Procurement Tool Kit** is a particular Procurement Instruction which outlines the processes and considerations involved in compiling a quotation and tender for Low, Intermediate and High contract spends.

**Procurement Values** the Council's agreed procurement processes outlined at various Contract value spend triggers/thresholds.

**PCR 2015** means Public Contracts Regulations which came into force on 26th February 2015 and directly implement the 2014 EU Public Sector Procurement Directive and any successor, enabling or amending legislation together with some UK reforms aimed to make public procurement more accessible to small businesses.

**Public Organisation** includes any organisation which may award a public contract under the PCR 2015.

**Public Services contract** is one under which the Council employ another party to provide Services.

**Public Works contract** is a contract to buy Supplies (not land or the product of an activity); or hire Supplies, whether or not the Council install them. Public Works contract is a contract for carrying out work under which the Council employ another party to do the work.

**Quotation** is a request for price and any other relevant matter without the formal issue of a public tender, for Contract spends less than the Council Advertising Threshold.

**Restricted** procedure means an advert will be placed in the Find a Tender Service (FTS), and the relevant press and trade journals. Organisations which express an interest will have to fill in a supplier selection questionnaire (SQ). The Council will

evaluate the SQs and produce a shortlist of suitable organisations which the Council will then invite to tender.

**Sealing** is placing the Council's seal on the contract documents to effect execution of the contract documents. The Council's seal is like the signature of the Council. Affixing the seal demonstrates approval of the content of contract documents. The seal can only be used following a resolution of the Council. The Monitoring Officer/Legal Officer advises when it is appropriate to seal contract documents.

**Section 151 Officer** as detailed in the Council's Constitution, a designated Officer of the Council with the statutory responsibility for finance matters.

**Services** in their purest form, are not Supplies or Works, although they may form part of these. Services are all encompassing and include all actions, both tangible and intangible.

**Signing** a contract includes arrangements for formally accepting a tender, if this is covered in the CPRs.

**Specification** is the descriptive document(s) as prepared by the Council Officer, detailing the requirements required from the provider in delivering the Works, Supplies or Services.

**Standstill period** is the period of time between the Council giving notice of the Council's plan to award the contract and the confirmation of the award of the contract which is needed under the PCR 2015. This gives unsuccessful companies the chance to ask for a debriefing and to challenge an award of a contract.

**Sourcing Strategy** is the written justification of the options considered, dismissed and ultimately decided upon when implementing a specific procurement process.

**Subsidy Control** is the new system regulating State Aid.

**Supplies** are stock items or amounts, usually tangible, of something supplied or available for use.

**Supply** includes buying, leasing, hiring or renting Supplies or Services or arranging any form of credit for them (this can also include when the Council do not pay anything for those Supplies or Services).

**Tender** is a provider's tender response to the Invitation to Tender.

**Tendering** means a formal procedure for getting written offers (tenders) for supply.

**Terms and Conditions** means the Council's standard templates or model sets of legal terms and conditions (as may be amended from time to time) and/or any industry-standard forms of contract documents and securities.

**Third sector** means non-governmental organisations that are driven by value and which mainly reinvest any profit to further social, environmental or cultural aims.

The sector includes voluntary and community organisations, charities, social enterprises, faith groups, housing associations and co-operatives and mutuals.

**Transparency Code** means the Local Government Transparency Code, issued in 2015, which mandates the Council to publish various spend data, and in particular specific procurement-related information.

**Value for money** is not the lowest price but the best combination of whole-life costs and quality to meet users' needs. Officers should always assess value for money over the whole life of the contract and Officers should consider all costs and benefits to society as a whole including the environmental and social benefits and costs, not just those directly relevant to us.

**Variation Bid** is a tender which technically meets the Specification but delivers the solution by a different means from that specifically requested by the Contracting Authority in the Tender.

**Works** is the subject matter of a Contract which is ordinarily property construction and civil engineering-related. A list of defined Works categories is shown in Schedule 2 of the Public Contracts Regulations. The Council may also treat 'Works' as an agreement where a developer constructs a building on their own land (according to Council needs) and then transfers the land and structure to the Council at a later date. Refer these projects to a Legal Advisor or Procurement Advisor in the first instance as soon as possible.

## Procurement Values

Options available for the tendering process

Type of contract	Value	Procurement route
<b>Low-value contracts</b>	Up to £500	<p>A framework agreement if there is one, unless the relevant Extended Leadership Team Member decides otherwise.</p> <p>One or more written quotations invited.</p> <p>Contract on the providers own terms/the Council Templates.</p> <p>Option to pay via Procurement Card.</p>
<b>Intermediate-value contracts</b>	Over £500 and up to £25,000	<p>A framework agreement, if there is one, unless the relevant Extended Leadership Team member decides otherwise.</p> <p>Three written quotations invited.</p> <p>If no framework option, decide whether a bespoke contract is needed.</p> <p>Contract on Council model Terms and Conditions or Templates where possible; contract on provider's terms and conditions where there is a business need and any associated risks have been considered.</p> <p>Seek early legal and procurement advice where appropriate.</p>
<b>High-value contracts</b>	Over £25,000 and up to Government Thresholds	<p>Publicly advertised procurement.</p> <p>Consult a Procurement Advisor for procurement advice, and to manage the procurement via electronic tendering.</p> <p>Seek early legal advice where required.</p> <p>Establish a Sourcing Strategy for the Procurement.</p>

		<p>A framework agreement if there is one, unless the Section 151 Officer decides otherwise.</p> <p>Advertised on the Government’s Contracts Finder Website.</p> <p>If no framework option, formal tender process – decide whether a bespoke contract is needed.</p> <p>Use Council Templates/model Terms and Conditions.</p> <p>Use the Council’s self-service Procurement Tool Kit to support the procurement process.</p>
<p>Public Contracts Regulations 2015 contracts</p> <p>Light Touch Regime contracts</p> <p>Concession Contracts Regulations contracts</p>	<p><b><u>Government Thresholds</u></b></p> <p>Supplies and Services over £213,477*</p> <p>Works over £5,336,937*</p> <p>Light Touch Regime contracts over £663,540*</p> <p>£5,336,937*</p> <p>*refreshed every 2 years from January 2022</p>	<p>The VAT position for any contract approaching these thresholds must be considered – seek procurement advice prior to starting a procurement process for contracts valued over £150,000 exclusive of VAT.</p> <p>Special rules apply – seek guidance from the Section 151 Officer.</p> <p>Seek early legal and procurement advice as soon as possible and consult a Procurement Advisor on <u>all</u> procurements over these thresholds.</p> <p>Use Council Templates/model Contract Terms and Conditions / Industry standards.</p>

## **A Introduction**

- A1 These Contract Procedure Rules (CPRs) are part of the Council's Constitution and are the procedural rules for procurements for the Council. There are circumstances where these CPRs do not apply (see A6 Exemptions). In addition, the Council's relevant Financial Regulations must also be met.
- A2 The Council explain the difference between Supplies, Works and Services (Services) in the Definitions contained at the start of these CPRs.
- A3 The CPRs apply to any contract that results in the Council making a payment and contracts where Services are being provided for the Council which results in some income being generated for the Council.
- A4 The CPRs also apply if the Council are acting as the lead organisation in partnership or other joint arrangement.
- A5 The CPRs do not cover grants which the Council may receive or make (unless the grant is part of a contract for Services) – see section B.
- A6 Exemptions are where CPRs do not apply to:
- buying items or Services from within the Council;
  - contracts of employment;
  - Contract for Barristers/Solicitors to represent and/or advise the Council;
  - contracts relating to interest in land (also known as property);
  - contracts for treasury management purposes "or in the course of treasury management activities";
  - contracts relating to selling or otherwise disposing of our assets;
  - Grants which the Council may receive or make (unless the grant is part of a Contract for Services or mandates that these Rules are to be followed).
- A7 If you are in any doubt about whether the CPRs apply, you must always check with any guidance issued by the Corporate Director Finance and Resources.
- A8 The Council's 'best value duty' is very important. It means that the Council must always consider how each procurement or contract meets the Council's duty to secure continuous improvement in what the Council does after taking account of economy, efficiency, effectiveness and outcomes. **As a result, the Council need to question whether the Council should be buying anything at all and, if the Council does, whether the Council can buy it best ourselves or**

**jointly, or if the Council should rely on someone else to get better value.**

- A9 Legislation on procurement requires that the Council must allow, and be seen to be allowing, freedom of opportunity to trade and to be open and clear about how the Council do things.
- A10 If the Council fails in this duty, a provider may make a complaint against the Council which could result in them claiming damages and even suspension of the contract.
- A11 The most important principles are being clear, open, transparent and providing fair competition. Whenever the Council are buying Services for the Council, the Council must always act to promote competition and to achieve value for money. However, the Council must also ensure that the Council try and be innovative in the ways in which the Council procure Services.
- A12 The CPRs have four main aims:
- keep to the obligations that govern spending public money, such as the Public Contracts Regulations 2015;
  - get best value in the way the Council spend money, so that the Council may in turn offer better and more cost-effective Services to the public;
  - help decisions to be made by the right people at the right level in the council; and
  - to provide transparency and protect Officers following the CPRs.
- A13 When an Officer is procuring for the Council, the Officer must consider the importance and effect of the Council's Policies on any procurement process and outcome.
- A14 With regard to below Public Contracts Regulations contracts these CPRs may be suspended (Waivered) in accordance with section U.
- A15 The CPRs are **automatically complied with** if the Council is entering into a framework agreement negotiated by another public organisation, or the Council is procuring jointly with one or more public organisations following the procurement processes of another public organisation, or any of the other situations covered in section U.
- A16 These CPRs apply to all contracts for Services for the Council or which the Council provide Services (other than those stated above) or the Officer has a valid Waiver under sections U.
- A17 Officers throughout the procurement must consider all other Council policies which could apply to the procurement project, e.g. The Council Plan, the Council's Financial Regulations, Business Plans, Delivery Plans, etc. and



legislative requirements such as (but not limited to) social value and equalities.

- A18 **These CPRs must be followed by Officers and breach of them is potentially a matter for disciplinary action.**

**B Grants & Contracts**

**Key Differences between Grants & Contracts**

- B1 Contracts – the essential elements of a contract are that there is a mutual bargain with consideration paid. A contract contains reciprocal obligations and the payment may be subject to VAT, depending on the service being supplied. Generally, all contracts are subject to PCR 2015 to some degree whereas a grant is not.
- B2 Grants - the grant funder is subsidising a Service it considers necessary, but which the grant recipient does not otherwise have the resources to deliver on a self-sustaining basis.

The essential elements of a grant are that the funds must be freely given, and the donor receives nothing in return. Unless the grant agreement is a Deed, there is no obligation to pay and a grant is also outside the scope of VAT.

- B3 The “grey area” between Grants and Contracts - restricted grants and contracts for Services can sometimes operate in a similar way.

For example, a local authority could give a grant to a childcare organisation to enable it to provide a certain number of subsidised places. Alternatively, the local authority could contract with the childcare organisation to purchase a certain number of childcare places on behalf of service users. To avoid any doubt, it is important to make it clear whether the arrangement is a grant or a contract and that the drafting does not include any ambiguous language.

- B4. Appropriate Agreement - once it has been decided whether the payment is a grant or for contracted Services, careful drafting of the Agreement is important.

For example, invoices are raised under a contract, but a grant is usually ‘claimed’ or ‘drawn down’. “Clawback” provisions are used in the drafting of a Grant Agreement to enable funders to reclaim funding if the terms of a grant are not complied with.

With a contract, there should be no mention of clawback as the funder’s remedy for any breach is to sue for damages. If in any doubt Officers should seek the guidance of the Section 151 Officer and Officers will be provided with an appropriate Agreement.

- B5. Officers shall comply with the Subsidy Controls requirements and the key principles and follow the BEIS Guidance. In particular, Officers need to record and set out grants in Council policy documents.

## **C Preparation**

### **Conflicts of Interests and Declarations of Interest**

- C1 If an Officer is involved in the procurement process or managing contracts, the Officer must declare any actual, potential or perceived possible conflict of interest to the Officers manager and the Monitoring Officer. Conflict of interest occurs when in the execution of official duties as Officers of the Council Officers may find themselves in a position to be influenced or appear to be influenced by a private or personal interest that could lead to trying to gain a personal advantage or to avoid a personal disadvantage. The golden rule is, if in doubt; declare it.
- C2 Every Officer who takes any decision or has any influence about a contract must comply with the Council's Code of Conduct for Employees.
- C3 Every Officer who has a financial interest/Key Influencer in a procurement or contract must contact the Monitoring Officer forthwith in writing. The Monitoring Officer under Section 117 of the Local Government Act 1972 will maintain a record of all Declarations of Interest.
- C4 Any Officer **must** inform the Monitoring Officer if the Officer dealing with a contract for the Council has been offered a gift or hospitality. The Officer can get more advice and guidance on the Core (the Councils intranet) in relation to Gifts and hospitality.

### **The Competitive Process**

- C5 Legislation states that the Council **must** always make sure that the Council is offering the opportunity to provide Services to the whole market to make sure there is fair competition.
- C6 If the contract is a High Value (in other words, with a value of more than £25,000), the Officer **must** follow the section on High Value procurements.
- C7 The value of a contract means the estimated total value over the length of time it will apply, including any extension options (**not the yearly value**), before VAT.
- If the contract is for buying a single item, which is not related to buying other items, the contract is worth the price, or estimated price, referred to in that contract.
  - If the contract is for buying a related group of items, the contract is worth the total price, or estimated total price, of the group.
  - An Officer should not split contracts to avoid the values (Disaggregation), either by item or length

## Who can procure Services?

- C8 Extended Leadership Team members should make sure that any buying is carried out by a Procurement Lead who can prove they have the skills and knowledge appropriate for buying the Services. .
- C9 Each Extended Leadership Team member **must** make sure that the Council does not go over the limits in the Scheme of Delegation.
- C10 Before starting a procurement process, the Procurement Lead should cover the following points in their Council Sourcing Strategy: -
- **Do the Council need to spend the money?** Is there a clear business need, supported by appropriate evidence and a budget in place?
  - **What is important to the council in this procurement?** Do you just need the Services? Or are there other things you want to bring about (for example, improved environmental performance, new jobs) or added social value. It is important that the Council consider whether the Council can obtain social value through the contract that is improving the social, environmental or economic wellbeing of our area (by virtue of the Public Services (Social Value) Act 2012. This allows those procuring to achieve broader aims but **must** consider any guidance issued by the Corporate Director Finance and Resources
  - **Can you procure what you need with another council or public authority?** If an Officer considers that the Council could save money or achieve other advantages if the Council procured with someone else, consider whether there is an existing framework arrangement or contract you can use. This framework or contract could be one already set up by another council or joint-purchasing organisation or run centrally by the Government (such as the Government Procurement Service).
  - **Can the Council use a purchasing consortium?** Is there some kind of recognised purchasing group in place (often referred to as a buying consortium) where the Council can use the purchasing arrangements to buy Supplies or Services? If there is a group in place, Officers do not have to keep to these CPRs. However, the Council can only procure the Supplies or Services that are covered by the group arrangements. Officers should seek advice from Legal/Procurement advisors prior to any joining of the arrangements. In particular, with regard to the scope of the tendering documentation and the provisions of the entire contract documentation relating to the arrangement.

## Employment Issues with TUPE (Transfer of Undertaking Protection of Employment Regulations) and Pension Arrangements

- C11 Entering into new contractual arrangements or changing existing contractual arrangements can give rise to TUPE implications. It is not always obvious that

there are TUPE implications (for example, when a contract with another supplier comes to an end and is to be put out to tender again). So, **if in any doubt**, the Procurement Lead **must get the** advice of Human Resources to make sure that any relevant TUPE arrangements are in place.

- C12 Where it has been decided that Services should be bought from an external source, the Council **must** consider the effects this may have on the existing in-house team and the possibility of staff transferring to the new provider under TUPE.
- C13 These contracts **must** contain appropriate wording to ensure that the Council's position is protected.
- C14 TUPE situations will almost always give rise to pensions arrangements. The Council's Human Resources, Legal and Pension's advisors should be consulted at the earliest opportunity.

### **Governance**

- C15 For contracts above the Public Contracts/Concessions Regulations Threshold an Extended Leadership Team Member must get further relevant approval from the relevant Cabinet Member before a contract is to be awarded. Evidence of this approval must be retained by the Extended Leadership Team member.
- C16 The Extended Leadership Team Member **must** consider if Cabinet Members should be involved in decisions during the tender process on contracts above the Public Contracts/Concessions Regulations thresholds, for example by deciding on the conditions for awarding the contract.

### **Collaborative Procurement**

- C17 Where the Council takes the lead procurement role in a Collaborative Procurement, these CPRs will apply to each procurement process carried out under the collaborative arrangement.
- C18 Where another public sector organisation takes the lead procurement role, its contract standing orders, or equivalent, will apply.
- C19 Where the Council enters into formal joint buying or consortia purchasing arrangements, the related Contract and procurement strategy must protect the Council to a level proportionate to the risk involved, whilst at the same time providing the basis for a partnering approach and delivery of best value / value for money.
- C20 A Procurement Advisor must be consulted prior to agreeing to enter into collaborative procurements.

### **Other**

- C21 An Extended Leadership Team Member will not, without approval from the Section 151 Officer, enter into a contract for supplying Services under any operating lease, hire, rental or any other credit arrangements.
- C22 Extended Leadership Team members must make sure all contracts are completed and stored and related procurement records and reports are kept, so they can be inspected, for a minimum period of 6 years up to a period as outlined in the corporate records retention arrangements. This includes Waivers to these Rules and using any delegated powers.
- C23 Any Consultant who is responsible to the Council for satisfying contract and procurement procedures must comply with the Council's CPRs.
- C24 Any Consultant must ensure that any conflicts of interest are managed and appropriately recorded.

#### **D Specification Requirements**

- D1 The Procurement Lead **must** clearly and carefully specify the Services to be supplied in writing, the agreed programme for delivery and the terms for payment together with all other terms and conditions. The Procurement Lead also needs to make sure that the Council will have the funds in the budget to pay for them.
- D2 When identifying and defining the need, the Procurement Lead should make sure they have involved a wider range of organisations relevant to the Supplies, Works or Services to be supplied. By knowing the market and encouraging a wider supply base, you have more chance to find the right providers and achieve the right Services at the right price.

#### **E Sourcing Strategy**

- E1 For all High Value contracts and those valued above the Public Contracts / Concessions Regulations threshold a formal Sourcing Strategy will be required. For other values the process for procurement will be recorded in writing locally by the Procurement Lead.
- E2 The Procurement Lead **must** decide on the strategy for buying the Services which must be approved prior to commencing any procurement process.
- E3 For all High Value contracts and those valued above the Public Contracts / Concessions Regulations threshold, approval of the proposed Sourcing Strategy is required by the Section 151 Officer.
- E4 For all Low and Intermediate contracts the decision and options for the procurement must be recorded locally by the Procurement Lead.
- E5 The Procurement Lead **must** consider options for delivering Services. The options below are in the specific order: -

- Not buying the Supplies, having the Works done or receiving the Services at all;
- By securing the provision of the Works, Supplies or Services in-house;
- Via co-operative working under Local Government Regulations to provide the ongoing Works, Supplies or Services (e.g. using the voluntary sector or via another Local Authority);
- By providing the Works, Supplies or Services via an existing Council Framework Agreement, Dynamic Purchasing System, Contract or similar arrangement;
- By providing the Works, Supplies or Services from an already pre-procured Framework Agreement or Dynamic Purchasing System or Contract provided by an external public sector body or from a Central Purchasing Body;
- By outsourcing/buying the provision of the Works, Supplies or Services through collaborative procurement with another local authority/partner, to/from an external provider on the open market by establishing a cooperative arrangement;
- By outsourcing/buying (via quotes or tenders) the Works, Supplies or Services to/from an external provider on the open market by establishing a bespoke Council Contract.

- E6 For High Value procurements, where the particular needs justify another procurement route from E5, written approval from the relevant Director, Section 151 Officer will be required.
- E7 It is important that Officers appraise the risk, value, provider activity, market pressures and all internal and external influencing forces associated with their procurement. Value may not always be proportional to risk. Consult a Procurement Advisor if in any doubt.
- E8 Early-on in the process it is important to agree whether a procurement project is considered as a Council Cabinet Key Decision, and therefore appropriate timely action sought where it does meet the criteria.
- E9 Whenever Officers buy Works, Supplies or Services for the Council, they must always act to promote competition and to achieve value for money.

## **F How the Council Buy What the Council Need**

### **Framework agreements (e.g. from Crown Commercial Services, ESPO, YPO etc)**

- F1 Framework Agreements are agreements that allow Officers to place orders with selected providers on pre-agreed terms.

### **Joining another Contracting Authority's Existing Framework Agreement**

- F2 Where the Council seeks to join an existing Framework Agreement then a due diligence exercise should be undertaken to ensure that the Framework Agreement was properly procured in accordance with the relevant legislation and ensure that the Council can access the Framework Agreement under the terms it was originally advertised with.
- F3 A Procurement Advisor must be consulted before buying from a Framework Agreement that has been procured by another Contracting Authority.
- F4 Officers are required to follow the instructions issued by the 3rd party Contracting Authority when procuring from this type of Framework Agreement. In doing so, Officers will be required to use different legal terms etc. There is no requirement to log any Waivers to these CPRs as a result of this. However, these CPRs are to be used where the price/quality evaluation criteria have not been expressly stated / left open.

### **Setting-up a Framework Agreement**

- F5 If Officers decide that they (or their partners) are likely to need to buy the Works, Supplies or Services repetitively in the future but are unsure of exact quantities, it may be that the best way to buy them is by initially setting up a Council Framework Agreement.
- F6 Should a Framework Agreement need to be procured consult a Procurement Advisor. Refer to the Procurement Tool Kit for a description of a Framework Agreement.
- F7 Prior to using a third-party framework seek advice from the Council's Procurement Advisors.

### **The Procurement Toolkit**

- F8 The Procurement Tool Kit is an agreed set of standard documentation which is to be used for the preparation of a procurement for all Contract spends below those of the Public Contracts / Concessions Regulations Thresholds.
- F9 It is mandatory to use the Procurement Tool Kit for Council procurements. Any exception from this must be agreed in advance by the Section 151 Officer.
- F10 The standard documents that comprise the Procurement Tool Kit are to be tailored where indicated only. Officers must seek a Procurement Advisor's agreement regarding any other changes to the documents.

### **Contracts Finder / Advertising**

- F11 Public adverts and award notices must be issued on the Government's Contracts Finder website for all tenders which are High Value and above Public Contracts / Concessions Regulations Thresholds

- F12 It is a requirement of these CPRs that any High Value contracts and contracts above the Public Contracts / Concessions Regulations Thresholds are advertised on the Council's Website, unless a Corporate Director agrees otherwise.

### **High-Value Contracts**

- F13 For High value contracts the Procurement Lead shall use the Procurement Toolkit suite of documents to perform a tender to the full public market. This process will also require the use of Contracts Finder.

### **Intermediate-Value Contracts**

- F14 For Intermediate Value contracts, the Procurement Lead **must** seek at least three written quotations or complete a tendering process before a Purchase Order is issued.
- F15 The quotations must contain the Council's standard and/or industry terms and conditions of contract, agreed pricing and Specification.

### **Low-Value Contracts**

- F16 For Low Value contracts, at least one quote must be obtained before the Services can be purchased.

### **Electronic Procurement and Emailed Quotations**

- F17 For High Value contracts or above the Council mandates the use of an electronic procurement (or e-procurement) system. Refer to a Procurement Advisor.

## **G The Public Contracts Regulations 2015**

- G1 Contact the Council's Procurement Advisors and the Council's Legal Advisers when inviting tenders for contracts over the Public Contracts / Concessions Regulations Thresholds.
- G2 The use of any clause within the Public Contracts Regulations must be approved at an early stage by a Legal Adviser and a Procurement Adviser, e.g. Regulations 12, 32 and 72.

## **H Disaggregation of Spend**

- H1 **Never** deliberately split down the value of contracts.
- H2 Wherever possible, the Council should make purchases in the form of a single large contract rather than a series of smaller contracts.



H3 Always add together the value of the separate contracts of the same type over a short period to decide whether the value of the contract falls within the limits.

## **I Sustainable Procurement (Ethical, Social & Environmental Value)**

### **Ethical Procurement**

I1 Consideration must be given to modern day slavery and equal opportunities as a minimum when conducting procurement process and managing any contract.

### **Social Value**

I2 Now under the Public Services (Social Value) Act 2012 the following must be considered: -

- How what is proposed to be procured could seek to improve the economic, social and environmental well-being of the area.
- How the Council may, through the procurement process, seek to secure improvements economically, socially and environmentally.
- Whether any consultation with the local community is necessary to establish how the contract being procured may improve the economic, social and environmental well-being of the area.

### **Environmental Value**

I3 Environmental value focuses on the sustainable environmental considerations of a procurement. Please refer to the relevant Council policies.

## **J Contract and Tender Documents**

J1 The Procurement Lead shall ensure that every procurement is carried out using the appropriate Contract and Tender documents.

J2 Unless agreed with the Section 151 Officer every **invitation to tender must** include as a minimum:

- the nature, purpose, start date and period of the contract;
- the detailed Specification prepared by the Procurement Lead and quantities of Services to be supplied or carried out;
- the times at, or within which, and the places at which the Services are to be supplied or performed;

- a copy of the Conditions of Contract which the successful provides will have to keep to;
- information on TUPE and pension arrangements where applicable;
- the evaluation criteria (with weightings) for awarding the contract;
- a statement that the Council do not have to accept the lowest or any tender;
- the closing time and date.

## **K Tender and Quotation Process**

K1 The Procurement Lead shall comply with the established Tender Process which includes issuing the Tender Specification, Terms and Conditions of the Contract, any applicable securities, quality questionnaire, pricing and evaluation criteria.

## **L Receiving and Opening Submissions**

L1 Supplier Selection Questionnaires (SQs) are only applicable for procurements above the Public Contracts Threshold for Supplies/Services. Where a SQ is required, contact a Procurement Advisor.

L2 All provider tender responses must be stored securely by the Procurement Lead to ensure compliance with GDPR and commercial confidentiality.

L3 The Council will not accept a late tender submission but reserves the right to clarify responses with suppliers in accordance with good procurement practice and statutory provisions/guidance.

L4 For Low value and Intermediate value contracts, quotations shall be requested and received by the Council email system.

L5 Electronic quotations must:

- be received by a Council email address; and
- have a date/ time of submission communicated to the recipients.

L6 All High Value and Public Contracts/Concessions Regulations contracts must be conducted via the Council's nominated electronic tendering system. All systems must, as a minimum, conform to the requirements stated in the Public Contracts Regulations. Approval is required from a Procurement Advisor to use an alternative electronic tendering system.

L7 Unless otherwise agreed by a Procurement Advisor, all electronic tendering for High Value contracts will be performed by a Procurement Advisor who will manage the posting of the tender documents and notices and manage the resulting clarifications. Officers shall prepare their tender in accordance with these Rules and the Procurement Tool Kit.

L8 Unless otherwise agreed by a Procurement Advisor, all electronic tendering for Public Contracts/Concessions Regulations contracts will be performed by a Procurement Advisor.

### **M Evaluating Submissions**

M1 Low and Intermediate value contracts will have its evaluation based on 100% of the quotation price.

M2 The Procurement Lead with the approval of an Extended Leadership Team Member will consider whether the Low and Intermediate contracts require the evaluation criteria to be based on the Most Economically Advantageous Tender (MEAT).

M3 For High Value contracts, the contract shall be awarded as detailed in the Sourcing Strategy and identifying the MEAT.

M4 Evaluation involves scoring tenders fairly by appropriate Officers as detailed in the Tender Documentation and advice from the Procurement Advisors.

### **N Awarding Contracts**

N1 The Procurement Lead **must** record in writing the results of the tender-evaluation process and the decision to award a contract.

N2 For Low value contract awards Officers must obtain the approval from the appropriate Team Manager or Officers with the appropriate delegated authority under the Council's scheme of delegation for procurement before they can formally be awarded.

N3 For Intermediate value contract awards Officers must obtain the approval from the appropriate Team Manager before they can formally be awarded.

N4 For High value contract awards Officers must obtain the approval from an Extended Leadership Team Member and the relevant Cabinet Member before they can formally be awarded.

N5 For Public Contracts/Concessions Regulations contract awards Officers must obtain the approval from a Director/Corporate Director and the relevant Cabinet Member before they can formally be awarded.

N6 All contracts awarded above the Low-Value Contracts threshold must be recorded on the Council's Contract Register (via the Council's Intranet).

N7 The Council cannot accept any tender unless, where required, the Council have carried out a financial check in line with our supplier financial appraisal strategy (Annex 2).

N8 The Procurement Lead must keep all tender-related documents in line with the Council's retention policies on keeping documents and to satisfy audit requirements.

## **O Insurance**

O1 Insurance conditions will be contained in the conditions of contract. In terms of insurance, the following types and minimum limits of cover will be expected: These figures can be varied by agreement of the Council's Section 151 Officer (the Officer with responsibility for finance matters)

	<b>Works Contracts</b>	<b>Supplies and Services Contracts</b>
Public Liability	£5 million	£5 million
Employers Liability	£5 million	£5 million
Professional Indemnity	£2 million	£2 million

O2 The above limits relate to each and every claim. For public liability and employers' liability, the cover must be in place throughout the period covered by the contract.

## **P Contract Award Notices**

P1 Officers must ensure that a Contract Award Notice is issued by a Procurement Advisor on the Contracts Finder portal for High Value and Public Contracts/Concessions Regulations contracts.

P2 Procurement Advisors will ensure that specific PCR contract award notices are placed on Find a Tender Service (FTS) for Public Contracts/Concessions Regulations contracts.

## **Q Completion and Storing Contracts**

Q1 There must be written evidence of every contract. All contracts must be in a model form or Template agreed with the appropriate Legal Adviser. All contracts shall be stored in a format allowing easy access.

Q2 For all contracts, except Low Value Contracts, the Council's model Terms, and Conditions and/or industry standards should prevail. Advice from the Council's Legal Advisers must be sought where the Council's model Terms and Conditions cannot be used.

Q3 The Council's Monitoring Officer **must** ensure a record or list of all model sets of conditions of contract that gives details of when the conditions were last updated, who is responsible for updating them, any changes and contact references is kept.

Q4 Unless otherwise directed by a Legal Adviser, all Low Value contracts may be agreed under Offer & Acceptance.

- Q5 Unless otherwise directed by a Legal Adviser, all Intermediate Value contracts to be signed under hand.
- Q6 Unless otherwise directed by a Legal Adviser, all High Value contracts to be sealed in accordance with the Resolution of the Council as provided by the Officer.
- Q7 All contracts signed following a Public Contracts Regulations procedure shall be sealed unless the Monitoring Officer or delegated officer directs otherwise.
- Q8 Sealing a contract allows the Council to potentially bring a claim for up to 12 years. For all Sealing, Legal advice must be sought from the Council's Legal Advisers.
- Q9 All Framework Agreements procured must be sealed.

**R Contracts Register**

- R1 A Contracts Register will be held by the Council which provides a central point for Contract information for Contracts in excess of Low Value Contracts.
- R2 The Contracts Register provides full visibility of existing and future Contracts and is also a legal record of data as requested by the Transparency Code.
- R3 The Contracts Register will retain details of expired contracts, subject to appropriate data retention rules, and a Forward Plan of proposed new procurements and potential future contracts.
- R4 Every Contract awarded by the Council that has a total aggregated value in excess of Low Value Contracts will be recorded in the Council Contracts Register.
- R5 It is the responsibility of the Procurement Lead (and whoever is managing the contract) to ensure that the Contracts Register is populated and updated on an ongoing basis as a result of any change in the Contract.

**S Transferring Contracts**

- S1 In appropriate circumstances the Council may agree to transfer a contract, by novation or assignment. The Procurement Lead must ask for early advice on how to transfer a contract from the Council's Legal Advisers and provide an appropriate approval in accordance with Awarding Contracts (Section N), before any contract is transferred.

**T Contract Variation, Extension and Termination**

- T1 Depending on any statutory restrictions and the need to keep to these CPRs, in accordance with Awarding Contracts (Section N) an Extended Leadership Team Member may authorise the: -
- ending of a Contract early; or
  - extending a Contract in line with its Terms and Conditions; or
  - materially varying a Contract; or
  - serving a default notice

## **U Waiver from the Contract Procedure Rules**

- U1 Waivers are where these CPRs, in whole or in part, are not followed as presented, unless otherwise indicated. The Council may grant a Waiver under conditions set out below. The Council cannot grant a Waiver if to do so would mean breaking any laws on public procurement or other relevant legislation.
- U2 Any Works, Supplies or Services Contract or process declared to be Waivered from these CPRs must be authorised, in writing, as follows: -
- by an appropriate Extended Leadership Team member for Low and Intermediate Value contract spends;
  - by the Corporate Director Finance and Resources or Chief Executive for High Value contract spends.
- U3 The Corporate Director Finance and Resources will keep a Register of all Waivers to these CPRs.
- U4 All applications for Waivers will need to be detailed on the Council's standard Waiver Form.
- U5 It is the responsibility of the Requesting Officer of the Waiver to ensure that it is reviewed and remains valid. The Requesting Officer is to seek further approvals where necessary.
- U6 The Council may grant a Waiver in the following circumstances: -
- If there is an unexpected emergency involving danger to life or health or serious damage to property, if the Services are needed more urgently than would be possible if the Council followed the tender or quotation procedure.
  - If, for technical reasons, the Services can be bought from only one provider and this can be justified.
  - If the proposed contract is an extension or change to the scope of an existing contract with a value (including the change or extension) that is below the relevant Public Contracts/Concessions Regulations thresholds.

However, this does not apply if the existing contract provides for an extension. Seek Procurement and Legal advice prior to completing the Waiver.

- If the Council can achieve value for money by not buying through an alternative procurement route.
- Issuing only one or two quotations where three are required adjusting the level of insurances when seeking SME providers.

**V Monitoring or Managing the Contract**

- V1 The contract must be properly monitored and checked to ensure that the contract is being properly performed and that the Council continues to obtain value for money. It is the Team Managers responsibility to ensure that this happens.
- V2 Contract monitoring and management arrangements agreed during the procurement process will be determined by the complexity and risk associated with the Contract and conditions in the relevant market. Such arrangements must take account of both financial and quality aspects.

**ANNEX 1**

Procurement team use	
Date	
Recorded	
Reference	

**South Staffordshire District Council**

**Waiver from Contract Procedure Rules**

A Waiver is sought where a procurement activity does not follow the Councils Contract Procedure Rules ('CPRs').

The Waiver is to be completed by the Officer requesting the Waiver (the Requesting Officer), and duly approved by a Procurement Advisor and Final Approver before submitting to [GroupMailDemocraticandRegulatoryServices@sstaffs.gov.uk](mailto:GroupMailDemocraticandRegulatoryServices@sstaffs.gov.uk). The Waiver Form should be read in conjunction with the CPRs to ascertain the final level of approval.

The Requesting Officer is advised to discuss the Waiver with the Procurement Advisor prior to completing it giving full information in a timely manner.





		<i>is already valued at/over £25,000 it should already be on the Contracts Register</i> c) <i>The details on the Contracts Register must be changed in accordance with the extension</i>
	<ul style="list-style-type: none"> <li>I understand and will comply with (a), (b), (c) &amp; (d)</li> </ul>	Yes <input type="checkbox"/>
	<ul style="list-style-type: none"> <li>Title of contract</li> </ul>	
	<ul style="list-style-type: none"> <li>Brief description of scope</li> </ul>	
	<ul style="list-style-type: none"> <li>Start date of contract or extension</li> </ul>	
	<ul style="list-style-type: none"> <li>End date of contract or extension</li> </ul>	
	<ul style="list-style-type: none"> <li>Any optional extensions (if a new contract)</li> </ul>	
	<ul style="list-style-type: none"> <li>For a <b>new</b> contract, provide the spend for the full term <u>including</u> any optional extension periods (£)</li> </ul>	
	<ul style="list-style-type: none"> <li>Or, when adding an <b>extension</b>, provide the spend for the extension periods (£)</li> </ul>	
	<ul style="list-style-type: none"> <li>Name of Provider (if known)</li> </ul>	
6	Document the risks associated with implementing this Waiver. Please detail the mitigating factors.	
7	Requesting officer, state: -	
	<ul style="list-style-type: none"> <li>Name</li> </ul>	
	<ul style="list-style-type: none"> <li>Job Title</li> </ul>	
	<ul style="list-style-type: none"> <li>Team</li> </ul>	
8	Requesting officer, state: -	
	<ul style="list-style-type: none"> <li>Name</li> </ul>	
	<ul style="list-style-type: none"> <li>Job Title</li> </ul>	
	<ul style="list-style-type: none"> <li>Comments</li> </ul>	
	<ul style="list-style-type: none"> <li>Date</li> </ul>	
	<ul style="list-style-type: none"> <li>REMINDER</li> </ul>	Procurement Adviser to ensure the Requesting Officer is aware of the requirements under (a) to (c) above.
9	Final Approver (see above guidance), state: -	
	<ul style="list-style-type: none"> <li>Name</li> </ul>	
	<ul style="list-style-type: none"> <li>Job Title</li> </ul>	
	<ul style="list-style-type: none"> <li>Comments</li> </ul>	

	• Date	
--	--------	--

It is the Requesting Officer's responsibility that once the Waiver has elapsed to check and ensure any true spend value has not exceeded any initial approved value in the original Waiver.

## Supplier financial appraisal Strategy

### Aim

The aim of the supplier financial appraisal Strategy is to reduce as far as possible the effect of a business failure on the most vulnerable in the community.

### Principles

The Strategy is based on:

- the need to help the Council make the right decision for all main critical contracts;
- promoting competition when buying Supplies, Works, Services and utilities;
- choosing the most suitable suppliers of Supplies, Works, Services and utilities based on a set of financial and market measures;
- the need to take account of the level of risk associated with the supply, service or supplier; and
- the ongoing assessment of the supplier's financial strength.

### The main responsibilities

While the final decision to reject an applicant for financial reasons rests with the Corporate Director Finance and Resources the emphasis will be based on a partnership approach.

Internal Audit will monitor how the Council follow this Strategy through their planned procurement audit assignments.

### Method

The following method applies for all contracts awarded using a tendering procedure or Waiver.

For Low and Intermediate value contracts you do not need to carry out a financial appraisal before awarding a contract.

For High value contracts the Extended Leadership Team Member, the relevant Corporate Director and the Corporate Director Finance and Resources will decide whether a financial appraisal is needed, before the contract is awarded.

For all PCR 2015 / Government Threshold contracts, a financial appraisal is required.

The basic assessment involves four questions as shown below.

- Is the type of supply or service being bought 'routinely' rather than as a one-off purchase?
- Is the supply or service readily available from a number of other suppliers?
- Can the supply or service be easily substituted?
- Are contract payments only made once the Council have received the supply or service?

If you answer no to any of the four questions, you will normally carry out a financial appraisal using the same process and a choice of those factors (1 to 8) shown below.

The Procurement Lead, Team Manager and a representative from the Finance team will decide on the need to carry out a financial appraisal for each year of the contract.

For all tendering exercises **over the Public Contract/Concessions Regulations threshold** the Council will carry out detailed financial appraisals.

### **Pre-contract award**

Factors to be discussed

- 1 The Council will take account of output from financial checks carried out using the financial assessors such as, but not limited to, Dunn & Bradstreet and Experian (based on those accounts lodged with Companies House).
- 2 The Council will analyse the latest set of accounts (if not lodged with Companies House).
- 3 The Council may assess any appropriate securities available as early as possible, e.g. bonds.
- 4 The Council will carry out financial checks on the parent company (if there is one)
- 5 The Council will analyse the contract value when compared to:
  - the recommended total yearly contract value;
  - the market standard of no more than 25% of turnover; and
  - the current total spending with the tender applicant.

- 6 In terms of the nature of the contract, the Council will look at:
  - the type of supply or service (for example, regular or one-off);
  - the extent of competition within the market (for example, how easy to source the contract); and
  - the payment terms (for example, payment in advance or payment once the Supplies or Services are received).
- 7 The Council will also look at information from suppliers gathered through current arrangements for managing portfolios or from other sources.
- 8 The Council will check the movement in share prices (if this applies).
- 9 For sole traders and partnerships, the Council need to change certain factors. For example, the Council will replace factors 1 and 2 with the requirement for tender applicants to fill in a financial assessment in a format set by the Corporate Director Finance and Resources. This will show certain information on trading accounts for the last three years. The assessment will automatically work out the average liquidity score.

Following on from the above, the Council will assess whether to reject the tender for financial reasons. Before the Council reject it, the Council will consider the need to get (where appropriate) a banker's reference or parent company guarantee. The Council will record and keep the result of this assessment (including the reasons behind it).

#### **Post-contract award**

In assessing the ongoing financial strength of suppliers, the Council will repeat the above process for each year of the contract within one month of the anniversary of the contract award date. This will help the Council manage contracts effectively.

For Contracts valued at/between £100,000 and £500,000 – the financial appraisal will be conducted once as part of the procurement process (prior to Contract award) and repeated, as a minimum, every 2 years

For Contracts valued over £500,000 – the financial appraisal will be conducted once as part of the procurement process (prior to Contract award) and repeated, as a minimum, each year



## **Section 8**

# **EMPLOYMENT PROCEDURE RULES**

## SECTION 8 – EMPLOYMENT PROCEDURE RULES

### 1. Recruitment and appointment

The Assistant Director Organisation and People Development has the responsibility for advice and guidance concerning the application of the Council's Recruitment and Selection Policy, which is available via the Council's website [www.sstaffs.gov.uk](http://www.sstaffs.gov.uk)

#### 1.1.1 Declarations

1.1.1.1 The Assistant Director Organisation and People Development will require a candidate for any appointment to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew, or niece of an existing councillor or officer of the Council or of the partner of such persons. This requirement will be included in any appropriate recruitment literature.

1.1.1.2 No candidate so related to a councillor or officer will be appointed without the written consent of the Assistant Director except where that post-holder is the employee to whom the candidate has declared such a relationship in which case the appropriate member of the Corporate Leadership Team (CLT) will approve any proposed offer of employment in writing.

#### 1.1.2 Seeking support for appointment.

1.1.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or any employee of the Council for that appointment with the Council. The content of this paragraph will be included in any recruitment information.

1.1.2.2 No councillor or employee of the Council will seek support for any person for any appointment with the Council. This rule shall not preclude any member or employee of the Council from giving a written testimonial of any candidate's ability, experience, or character for consideration in conjunction with an individual application, but, having given such a testimonial, that member or employee shall take no part in the short listing or interview process.

### 1.2 Recruitment of Chief Executive (Head of Paid Service)(Chief Officer)

Where the Council proposes to appoint a Head of Paid Service or Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

#### 1.2.1 draw up a statement specifying:

1.2.1.1 the duties of the post concerned; and

- 1.2.1.2 any qualifications or qualities to be sought in the person to be appointed;
- 1.2.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 1.2.3 make arrangements for a copy of the statement mentioned in paragraph 1.2.1 to be sent to any person on request.

### **1.3 Officers below Chief Officer Level**

Subject to paragraphs 1.3.1, 1.5 and 1.6, the function of appointment and dismissal of, and taking disciplinary action against, an employee of the Council must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by him/her except where the Local Authorities (Standing Orders) (England) Regulations 2001 provide that it must be by the Appointments Panel or Council or other body as provided for in Part 3 of the Constitution.

- 1.3.1 Paragraph 1.3 shall not apply to the appointment or dismissal of or disciplinary action against:-
  - 1.3.1.1 the officer designated as the Head of Paid Service;
  - 1.3.1.3 the Corporate Director Finance and Resources within the meaning of Section 151 of the Local Government Act, 1972
  - 1.3.1.4 the Monitoring Officer within the meaning of Section 5 of the Local Government and Housing Act, 1989
  - 1.3.1.5 an assistant for a political group appointed in pursuance of section 9 of the 1989 Act.

### **1.4 Appointment, and Dismissal of Chief Executive (Head of Paid Service)**

#### **Appointments**

- 1.4.1 The appointment or dismissal of the Head of Paid Service will be made following the recommendation of the Appointments Panel, the full Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.
- 1.4.3 An offer of an appointment as Head of Paid Service must not be made until:-
  - 1.4.3.1 the Appointments Panel has notified the Proper Officer of the name of the person to whom it wishes to make the offer and any other particulars which the panel considers are relevant to the appointment;
  - 1.4.3.2 the Proper Officer has notified every member of the Cabinet of:-



- (a) the name of the person to whom the panel wishes to make the offer (subject to approval of the Council);
- (b) any other particulars relevant to the appointment which the panel has notified to the proper officer; and
- (c) the period within which any objection to the making of the offer is to be made to the Proper Officer by the Leader of the Council on behalf of the Cabinet; and

1.4.3.3 either -

- (a) the Leader of the Council has, within the period specified in the notice under sub-paragraph (c) above, notified the panel that neither he nor any other member of the Cabinet has any objection to the making of the offer;
- (b) the Proper Officer has notified the panel that no objection was received by him within that period from the Leader of the Council; or
- (c) the panel (or in the case of the appointment of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader of the Council within that period is not material or well-founded.

1.4.4 Notice of the dismissal as a result of disciplinary action, of an officer referred to in sub-paragraphs 1.3.1.1 to 1.4.3 above must not be given until –

Dismissals

1.4.4.1 the panel has notified the Proper Officer of the name of the person who it wishes to dismiss (in the case of the Head of Paid Service, the Monitoring Officer, or the Corporate Director Finance and Resources, subject to the approval of the Council) and any other particulars which it considers are relevant to the dismissal;

1.4.4.2 the Proper Officer has notified every member of the Cabinet of:-

- (a) the name of the person whom the panel wishes to dismiss;
- (b) any other relevant particulars relevant to the dismissal which the panel has notified to the Proper Officer; and
- (c) the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer; and

1.4.4.3 either:-

- (a) the Leader of the Council has, within the period specified in the notice under sub-paragraph (c) above, notified the panel that neither he nor any other member of the Cabinet has any objection to the dismissal;

- (b) the Proper Officer has notified the panel that no objection was received by him within that period from the Leader of the Council; or
- (c) the panel (or in the case of the proposed dismissal of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader of the Council within that period is not material or well-founded.

1.4.5 The Proper Officer for the purposes of the rules shall be the Assistant Director Organisation and People Development for the time being of the Council or if he/she is unable to act in that capacity (either due to absence or as a result of conflict of interest (e.g. prior involvement)) the Monitoring Officer.

## **1.5 Disciplinary Action/Dismissal – Members of the Corporate Leadership Team (other than the Head of Paid Service)**

1.5.1 Where the Head of Paid Service considers that the actions of any officer who is designated as a member of the Corporate Leadership Team (other than the Head of Paid Service) warrant investigation, the Head of Paid Service may suspend the relevant officer(s) pending the outcome of an investigation under the Council's disciplinary procedure, but otherwise disciplinary action against or the dismissal of any officer who is designated as a member of the Corporate Leadership Team (other than the Head of Paid Service) will be undertaken by a politically balanced panel of councillors set up for that purpose. That panel must include at least one member of the Cabinet.

1.5.2 Notice of disciplinary action against an officer identified in paragraph 1.5.1 must not be given until:-

- (a) the panel has notified the Proper Officer of the name of the person who it wishes to discipline and any other particulars which it considers are relevant to the action proposed.

- (b) the Proper Officer has notified every member of the Cabinet of:-

- (i) the name of the person whom the panel wishes to discipline

- (ii) any other particulars relevant to the disciplinary action which the panel has notified to the Proper Officer

1.5.3 Notice of the dismissal as a result of disciplinary action, of an officer referred to in paragraph 1.5.1 must not be given until:-

- (a) the panel has notified the Proper Officer of the name of the person who it wishes to dismiss and any other particulars which it considers are relevant to the dismissal;

- (b) the Proper Officer has notified every member of the Cabinet of:-
  - (i) the name of the person whom the panel wishes to dismiss
  - (ii) any other particular relevant to the dismissal which the panel has notified to the proper officer.

1.5.5 The Proper Officer for the purposes of the rules shall be as specified in paragraph 1.4.5.

## **1.6 Appeals**

Nothing in paragraph 1.3 shall prevent a member from serving on a committee or sub-committee established by the Council to consider an appeal by:-

- 1.6.1 a person against any decision relating to the appointment of that person as an employee of the Council; or
- 1.6.2 an employee of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that employee.

## **1.7 Disciplinary action - Head of Paid Service, Monitoring Officer, and Corporate Director Finance and Resources**

- 1.7.1 No disciplinary action in respect of the Head of Paid Service, Monitoring Officer, or Corporate Director Finance and Resources, except action described in paragraph 1.7.2, may be taken by the Council, or by a Committee, a Sub-Committee, a Joint Committee on which the Council is represented, or any other person acting on behalf of the Council, other than in accordance with the provisions under regulation 7 and schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- 1.7.2 The Head of Paid Service, Monitoring Officer, or Corporate Director Finance and Resources may only be suspended by a politically balanced panel as referred to in paragraph 1.4.1 and such suspension shall only be for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the date of such suspension.
- 1.7.3 The Leader of the Council shall have power to suspend the Chief Executive with immediate effect in an emergency as defined in the JNC Conditions of Service Handbook Model Disciplinary Procedure and Guidance.



## **PART 5**

### **CODES AND PROTOCOLS**

<b>Section 1</b>	<b>Councillor's Code of Conduct</b>	<b>1-13</b>
<b>Section 2</b>	<b>Employees' Code of Conduct</b>	<b>14-23</b>
<b>Section 3</b>	<b>Protocol on Councillor/Employee Relations</b>	<b>24-28</b>



**South Staffordshire Council**  
**UK Council of the Year 2022**

# Code of Conduct



[www.sstaffs.gov.uk](http://www.sstaffs.gov.uk)



## Introduction

This Code of Conduct ("the Code") was adopted by South Staffordshire District Council ("the Council") as required by Section 27 of the Localism Act, 2011 ("the Act") at a meeting of the Council held on 10 May 2022.

The Council has a statutory duty under the Act to promote and maintain high standards of conduct by members and co-opted members of the Council ("the members").

Complaints alleging a failure to comply with this Code of Conduct will be considered in accordance with the procedure agreed by the Council which is available on the Council's website.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The Local Government Association (LGA) encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

### **In accordance with the public trust placed in me, on all occasions:**

- I act with integrity and honesty,
- I act lawfully,
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

### **In undertaking my role:**

- I impartially exercise my responsibilities in the interests of the local community,
- I do not improperly seek to confer an advantage, or disadvantage, on any person,
- I avoid conflicts of interest,
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- You misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### 1. Respect

As a councillor:

- 11 I treat other councillors and members of the public with respect.**
- 12 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Council's protocol on Councillor/Employee relations in part 6 of the Constitution.

### 2. Bullying, harassment and discrimination

As a councillor:

- 21 I do not bully any person.**
- 22 I do not harass any person.**
- 2.2 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.



The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### 3. Impartiality of officers of the council

As a councillor:

**31 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### 4. Confidentiality and access to information

As a councillor:

**41 I do not disclose information:**

- a. Given to me in confidence by anyone.
- b. Acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
  - i. I have received the consent of a person authorised to give it;
  - ii. I am required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    1. Reasonable and in the public interest; and
    2. Made in good faith and in compliance with the reasonable requirements of the local authority; and
    3. I have consulted the Monitoring Officer prior to its release.

**42 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**43 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## 5. Disrepute

As a councillor:

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## 6. Use of position

As a councillor:

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## 7. Use of local authority resources and facilities

As a councillor:

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others.**

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support.
- stationery.
- equipment such as phones, and computers.
- transport.
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## 8. Complying with the Code of Conduct

As a councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### Protecting your reputation and the reputation of the local authority

## 9. Interests

As a councillor:

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 10. Gifts and hospitality

As a councillor:

- 10.1** I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2** I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 10.3** I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## Appendix A - The Seven Principles of Public Life

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

# Appendices

8. Where a matter arises at a meeting which affects:
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in Table 2.

You must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (*referred to in paragraph 8 above*) affects the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the **Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012**.

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the Subject Description Employment, office, trade, profession or vocation Page 13 of 16 Approved 3rd 12.2020 Updated 19 January and 17 May 2021 councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council.</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to the councillor’s knowledge): (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where: (a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* ‘director’ includes a member of the committee of management of an industrial and provident society.

\* ‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



## Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships.
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
- c) any body:
  - (i) exercising functions of a public nature,
  - (ii) directed to charitable purposes or,
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

**Part 5 – Section 2**

**EMPLOYEES'**

**CODE OF CONDUCT**

## **EMPLOYEES' CODE OF CONDUCT**

### **1. BUSINESS, PRIVATE WORK AND GIFTS**

It is not acceptable for staff to undertake private work that may give rise to a conflict between the duties of the council and their duties to a private individual or organisation. Staff should not become involved in a private capacity in any way whatsoever in any matter on which the Council has to make a decision, e.g. Planning and Building Regulation Applications, or any matter in which the Council are involved, e.g. legal work, Grant Applications, Appeals, etc. The public and Members of the Council are entitled to expect their Officers to be entirely independent in such matters and any Officer who undertakes private work in breach of this instruction, without written authority from the appropriate Member of the Corporate Leadership Team, will be guilty of Gross Misconduct and may be dismissed.

Notwithstanding the policy, in exceptional cases, the Council may be prepared to give consent for an Officer to undertake work of this nature and applications for consent, giving a detailed justification, should be submitted in writing to the appropriate member of the Corporate Leadership Team. Any difficulties of interpretation should also be referred to the appropriate Member of the Corporate Leadership Team.

For confirmation on a particular matter please read the following guidelines.

### **2. GUIDELINES RELATING TO CONDUCT OF EMPLOYEES**

#### **2.1 Introduction**

2.1.1 These guidelines are intended to assist employees in providing standards of conduct expected by South Staffordshire Council.

2.1.2 They apply to all employees of the Council, irrespective of the particular scheme of conditions the person is employed under.

2.1.3 The guidelines supplement:-

- (i) current legislation, the Local Government Act 1972, (section 117 is included at Appendix 'A'); and
- (ii) the relevant code of Official Conduct as contained in the National Scheme of Conditions of Service relating to the NJC for Local Government Services, JNC for Chief Officers and the JNC for Chief Executives.

2.1.4 The guidelines are intended to offer assistance to all employees and cover the following matters:-

- Declaration of interest
- Other Employment and Payment for Services
- Acceptance of Gifts or Hospitality
- Sponsorship of Major Council Events or Activities
- Confidentiality and Accuracy of Information
- Use of Council Facilities and Resources
- Political Interest/Activity
- Discrimination and Equal Opportunities
- Health and Safety Policy

## **2.2 Declaration of Interest**

2.2.1 Upon the commencement of employment with the Council, all employees are required to “declare their interest” in any matters affecting the decisions and/or operations of the Council. In addition, a declaration should also be made in respect of any subsequent acquisition of an interest. An “interest” should be declared so far as it is known where it involves the following:-

- The employee
- The employee’s spouse or partner
- The employee’s close relatives, ie parent, brother, sister or child.

It is only necessary to disclose an interest where the employee can exert influence on any decision making process.

2.2.2 The declaration should be made in writing and submitted to the appropriate member of the Corporate Leadership Team who will forward it to the Chief Executive. A central register of interests will be maintained by the Chief Executive and a note of the declaration will be made on the individual’s file.

2.2.3 Employees are reminded of the NJC Scheme of Conditions for Local Government Services that states "Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."

## **2.3 Other Employment and Payment for Services**

2.3.1 Before engaging in any business activity or private work, whether paid or unpaid, employees must receive the consent of the appropriate Corporate Leadership Team. This will allow a decision to be made as to whether such employment or business activity conflicts with the Authority’s interest or in any way weakens public confidence in the Authority’s business. Notification of any business activity or private work must be given in writing.

- 2.3.2 The Corporate Leadership Team are authorised to give consent provided the activity or work:-
- will not interfere with the employee's official duties;
  - does not generate a conflict of interest with Council business;
  - does not relate in any way to the granting of planning permission or building regulation approval within the District, or to other decisions made by the Council or its officers (e.g. purchasing, improvement grants, mortgages); and
  - does not in any way relate to contracts entered into by the Council.
- 2.3.3 The Members of the Corporate Leadership Team will give any consent in writing and will notify the Chief Executive so that a note can be retained on the employees personal file and central register held in Human Resources Service and a copy retained on a central register maintained by the Chief Executive.
- 2.3.4 Where consent of a member of the Corporate Leadership Team is withheld, the employee concerned will have the right of appeal in the first instance to the Chief Executive and then through normal grievance procedures.
- 2.3.5 Where a business activity or form of private work is of a continuous nature, it shall be sufficient for the employee concerned to obtain one consent, provided that any change in the situation is notified by the employee at the earliest opportunity.
- 2.3.6 Where consent is given, the employee must ensure that it is made clear to all concerned that the activity has nothing to do with the Council and no liability rests with the Council. On no account must the activity be carried out during working hours and none of the Council's equipment or facilities should be used. In particular, telephone calls should not be taken at the offices of the Council and the Council's telephone number should not be given to third parties.
- 2.3.7 In the event that a fee is paid in respect of the provision of a service carried out by an individual in their capacity as an Employee of the Council, the fee should be made payable to the Council and not to the Officer concerned.
- 2.3.8 A register of other employment and payment for services will be maintained by the Chief Executive.
- 2.3.9 Employees are reminded of the relevant Scheme of Conditions relating to Official Conduct.

## 2.4 Acceptance of Gifts

- 2.4.1 The acceptance of gifts by employees in their individual capacity could be viewed with suspicion by members of the public and make the employee and the Council vulnerable to criticism. Employees should ask themselves the question: If a story appeared on the front page of a newspaper about the matter, would I be embarrassed? If yes, then it indicates you should not be accepting the gift. **This principle should be considered for all offers of gifts and hospitality.** The Bribery Act 2010 introduced a number of offences relating to the receipt of bribes where a financial or other advantage is being transferred; if you have any concerns you should seek legal advice at the earliest opportunity. The overriding expectation of all employees is that as they occupy positions of trust, they will act in good faith and with impartiality.
- 2.4.2 Modest gifts of a promotional nature, given by way of trade advertisements to a wide range of people, are acceptable. These include calendars, diaries, tape measures and articles for office use, e.g. pens, notepads. Also acceptable are gifts, whether or not of a promotional nature, offered at the conclusion of a courtesy visit to a factory or other premises. It is considered that a modest gift would not exceed the value of £50.00 and receipt of any gift valued higher than this must be notified to the Chief Executive.
- 2.4.3 If an employee receives a significant gift i.e. of a value estimated at over £50.00 without warning (for example, via the post), the employee should immediately inform the appropriate member of the Corporate Leadership Team/Assistant Director/Corporate Support Manager of this matter. The appropriate member of the Corporate Leadership Team will then become responsible, in consultation with the Chief Executive, in deciding upon the appropriate action to be taken. This action may involve the return of the gift to the sender or forwarding it on to some charitable or deserving cause, or other measures. The member of the Corporate Leadership Team concerned should inform the donor, in writing, of the action taken.
- 2.4.4 There may be occasions where it is not possible to refuse a significant gift without giving offence or where it would be churlish to refuse. In such cases the employee should immediately inform the appropriate member of the Corporate Leadership Team and enter receipt of the gift in the central register held by the Monitoring Officer.
- 2.4.5 In summary, if there is any doubt about whether a gift may be accepted, the gift should be politely and tactfully refused.

## 2.5 Offers and Acceptance of Hospitality

- 2.5.1 Whether employees should accept hospitality as a result of their employment at the Council is very much a matter of judgement given the particular

circumstances. The principle mentioned at 2.4.1 above should be considered. It must be apparent that no cause could reasonably arise for adverse criticism of the Council or individuals following the acceptance of any hospitality. It is important that any suggestion of improper influence is completely avoided. In such instances where any suggestion of improper influence is even remotely possible, the offer of hospitality must be politely refused by the employee. This applies to offers to employees and to their immediate families.

2.5.2 The following hospitality would generally be considered acceptable:-

- (a) An offer of a drink following a site visit.
- (b) Hospitality offered by other non-commercial or charitable bodies, provided that there is a general understanding that no indebtedness will result from the acceptance.
- (c) Invitations to functions the employee represents the Council in an official capacity, for example, when invited to speak, opening ceremonies, trade shows.
- (d) Invitations to functions where attendance would be by virtue of the employee's position and as a representative of the Council.
- (e) A working lunch where acceptance does not put the individual's personal integrity, or that of the Council, into question.
- (f) Hospitality of the "corporate entertaining" nature, for example, at sports, social or training events, or at conferences (where others are being simultaneously entertained), is acceptable if there is a general understanding that no indebtedness will result from acceptance. Unless specifically authorised as a duty, the employee would be expected to take leave if it occurs during working time.

2.5.3 Offers of hospitality that appear immodest or lavish should be refused and the offer reported to the appropriate member of the Corporate Leadership Team or to the Chief Executive.

2.5.4 Prior to accepting any offer of hospitality, the views of the appropriate member of the Corporate Leadership Team or Chief Executive should be sought. Receipt of any hospitality should be entered in the central register held by the Monitoring Officer.

2.5.5 Breach of the above provisions with regard to the receipt of gifts and hospitality will result in disciplinary action being taken against the employee.

## **2.6 Sponsorship of Major Council Events, Activities or Publications**

2.6.1 All offers of sponsorship should be notified to the Chief Executive. Any sponsorship with a value greater than £500 requires the approval of the Chief Executive.

2.6.2 The record of sponsorship will include:-

- (a) Name of sponsor and type of sponsorship offered; and
- (b) Approval or refusal of the Chief Executive, where appropriate.

Details are to be notified on the relevant form and forwarded to the Chief Executive for retention on the Central Register of Sponsorship.

## **2.7 Confidentiality and Accuracy of Information**

2.7.1 The confidentiality of information received in the course of an employee's duty should be respected and should never be used for personal or political gain.

2.7.2 No employee shall communicate to the public the proceedings of any confidential section of the Council's meetings, etc. nor the contents of any document relating to the Council unless required to do so by law or expressly authorised to do so by the appropriate member of the Corporate Leadership Team. Confidentiality remains when the employee has left the employment of the Council.

2.7.3 Information given by an employee in the course of a duty should be true and fair and never designed to mislead.

## **2.8 Use of Council Facilities, Resources, etc**

2.8.1 Any facilities, equipment, tools, etc. provided by the Council for use in an employee's duties should be used only for those duties and for no other purpose except where prior approval has been granted by the appropriate Member of the Corporate Leadership Team. This applies to all facilities and property, including use of telephones, photocopiers, vehicles or other similar equipment.

2.8.2 Where arrangements are in place for employees to make payment for the private use of equipment, such as telephone calls and photocopiers, their position of trust should not be abused. It should be noted this does not give employees the right to use these "paid for" services to the extent that such use interferes with the duties of their post. In particular, telephone calls should be restricted to urgent or emergency use only and the Council's telephone numbers should not be given to third parties.



- 2.8.3 No employees should use their position to gain the use of Council or other services without payment of the appropriate charges. The approved arrangements for the use of equipment, services, etc for private use should always be followed.

## **2.9 Political Interest/Activity**

- 2.9.1 Employees are reminded of their political neutrality and that they serve the Council as a whole and must ensure that the individual rights of members are respected.
- 2.9.2 It is vital that both the Council and the public are confident that employees will serve loyally and impartially. It is essential that in fulfilling their duties and responsibilities employee's own political views do not influence decisions or recommendations.
- 2.9.3 Employees should not carry out any political activity which in any way might confuse the public about whether or not they are still acting as a Council employee.
- 2.9.4 Certain posts are designated as "politically restricted" and have additional conditions laid on them. These posts will have been identified and details issued previously, should there remain any uncertainty employees should contact Human Resources for advice.

## **2.10 Equality Act and Discrimination**

- 2.10.1 The Equality Act 2010 sets out the legal requirements concerning the promotion of equality, eliminating discrimination for everyone protected by the Act. The protected characteristics under the Act are, age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief and sexual orientation. Employees are required to ensure they do not directly or indirectly discriminate against colleagues, customers applying for a job or customers in receipt of services from the Council.

## **2.11 Failure to comply**

- 2.11.1 The conduct of all employees should be such that they remain immune from any criticism or suspicion that their actions or decisions have been unduly influenced. Employees are expected to use common sense in assessing any situation where this could be construed. No employees should act in any manner that could give rise to such accusations.
- 2.11.2 It is the responsibility of every employee to maintain the standards and integrity expected in public service. It is also each employee's responsibility

to bring to the attention of the appropriate member of the Corporate Leadership Team any deficiency in the provision of that service and report any impropriety or breach of procedure.

2.11.3 Any employee failing to comply with this code of conduct will be liable to disciplinary action which may result in their dismissal.

**Guidelines relating to Conduct of Officers**

**Local Government Act 1972 – Extract**

**Section 117**

- 117-(1) If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section an Officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a member of the authority.

- (2) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
- (3) Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding (Level 4 on the standard scale).

**Part 5 – Section 3**

**PROTOCOL ON  
COUNCILLOR/EMPLOYEE  
RELATIONS**

## **PROTOCOL ON COUNCILLOR/EMPLOYEE RELATIONS**

### **1. INTRODUCTION**

- 1.1 The relationship between councillors and employees is an essential ingredient that goes into the successful working of the organisation. This relationship within South Staffordshire Council is characterised by mutual respect, informality and trust. Councillors and employees feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help councillors and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Assistant Director Organisation and People Development.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

### **2. ROLES OF COUNCILLORS AND EMPLOYEES**

- 2.1 The respective roles of councillors and employees can be summarised as follows:

Councillors and employees are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Employees are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Cabinet, and relevant committees, panels, etc.

Mutual respect between Councillors and employees is essential to good local government.

#### **2.2 Councillors**

Councillors have three main areas of responsibility: determining the policy of the Council and giving it political Leadership, representing the Council externally, and acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day to day management of Council services.

#### **2.3**

#### 2.4 Members of the Cabinet, Chairmen of Committees

Members of the Cabinet and Chairmen of Committees, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of councillors without those responsibilities, and this is recognised in the expectations they are entitled to have.

#### 2.5 Opposition Members

As individual members of the Council, all councillors have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of scrutiny and overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between employees, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

#### 2.6 Employees

The role of employees is to give advice and information to members and to implement the policies determined by the Council.

Certain employees e.g. Head of Paid Service, Monitoring Officer and Corporate Director Finance and Resources (Section 151 Officer) have responsibilities in law over and above their obligations to the Council and its Members that they must be allowed to discharge.

### 3. EXPECTATIONS

Councillors can expect from employees:

- A commitment to the Council as a whole, and not to any political group
- A working partnership
- An understanding of and support for respective roles, workloads and pressures
- Timely response to enquiries and complaints
- Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of employees.
- Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity to the political environment

- Respect, dignity and courtesy
- Training and development in order to carry out their role effectively
- Integrity, mutual support and appropriate confidentiality
- Not to have personal issues raised with them by employees outside the agreed procedures
- That employees will not use their relationship with members to advance their personal interests or to influence decisions improperly
- That employees will at all times comply with the relevant Code of Conduct

Employees can expect from councillors:

- A working partnership
- An understanding of and support for respective roles, workloads and pressures
- Political Leadership and direction
- Respect, dignity and courtesy
- Integrity, mutual support and appropriate confidentiality
- Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of employees in determining what are reasonable requests, having regard to the power relationship between members and employees, particularly at junior levels
- That councillors will not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly
- That councillors will at all times comply with the relevant Code of Conduct

#### **4. WHEN THINGS GO WRONG**

##### **Procedure for employees**

- 4.1 From time to time the relationship between councillors and employees may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or councillor, employees will have recourse to the Harassment and Grievance Procedures or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate Group Leader will decide on the course of action to be taken, following consultation with the Chairman and Vice Chairman of the Standards and Resources Committee.

## **Procedure for Councillors**

- 4.2 In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an employee, the matter should be raised with the appropriate member of Corporate Leadership Team (CLT). Where the employee concerned is a member of CLT, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Assistant Director Organisation and People Development. If the matter cannot be resolved informally, it may be necessary to consider mediation or invoke more formal employment procedures depending on the circumstances.





**PART 6**

**COUNCILLORS'  
REMUNERATION SCHEME**

May 2022

SOUTH STAFFORDSHIRE COUNCIL

THE LOCAL AUTHORITIES (MEMBERS' ALLOWANCES) (ENGLAND) REGULATIONS 2003  
THE LOCAL AUTHORITIES (MEMBERS' ALLOWANCES) (ENGLAND) (AMENDMENT)  
REGULATIONS 2003

**MEMBERS' ALLOWANCES SCHEME**

1. The following allowances are payable to members of South Staffordshire Council ("the Council") and in the case of Standards and Resources Committee a non-member, from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2022, and each year thereafter unless amended or revoked, namely,

- an annual basic allowance of £5,908 payable monthly to all members of the Council;
- an annual special responsibility allowance payable monthly to those members (and in the case of the Standards and Resources Committee any non-member) who hold the following office under the Council at the rates indicated against each office and additional to the basic allowance:

Leader of the Council	£14,128
Cabinet Members	£6,165
Assistant Cabinet Members	£3,086
Leader of the Major Opposition Group	£2,568
Chairman of the Planning Committee	£3,596
Chairman of the Overview and Scrutiny Committee	£2,568
Chairman of the Standards and Resources Committee	£2,568
Chairman of the Licensing and Regulatory Committee	£2,568
Chairman of the Audit & Risk Committee	£2,568
Vice-Chairman of the Planning Committee	£1,027

on the basis that only one special responsibility allowance will be paid to a member in addition to the basic allowance;

- travel and subsistence allowances in accordance with the Council's scheme for the time being relating to the same (including, for the avoidance of doubt, parking charges), for officers paid on spinal column point 38 with the Council Offices, Codsall, being regarded as the normal place of work for the purposes of that scheme and payable in respect of all duties falling within the categories specified in regulation 8 of the Local Authorities (Members' Allowances) (England) Regulations 2003.
- an annual allowance to the Chairman of the Council of £5,000 payable monthly under the provisions of Section 3 of the Local Government Act, 2000, in addition to the annual basic allowance on the basis that no special responsibility allowance will be paid to the Chairman; and

- an annual allowance to the Vice-Chairman of the Council of £2,500 payable monthly under the provisions of Section 5 of the Local Government Act, 2000, in addition to the annual basic allowance on the basis that no special responsibility allowance will be paid to the Vice-Chairman.
2. All allowances are subject to a yearly increase on 1<sup>st</sup> April each year (from 1.4.2020) based on the recommended increase for Chief Officer's pay (whether implemented or not by the authority).
  3. Where a term of office of any person covered by this scheme begins or ends otherwise than at the beginning or end of a year, the entitlement shall be to payment of such part of the allowance as bears to the whole the same proportion as the number of days during which the term of office as member subsists bears to the number of days in that year.
  4. Where payment of any allowance has already been made in respect of any period during which any person covered by this scheme is concerned is:
    - 3.1 ceases to be a member of the Council; or
    - 3.2 is in any other way not entitled to receive the allowance in respect of that period,
- the Council may require that such part of the allowance as relates to any such period be repaid to the Council.
5. Where a member of the Council is also a member of another authority, that member may not receive allowances from more than one authority in respect of the same duties.
  6. Any person covered by this scheme may, by notice in writing given to the Chief Executive, elect to forego the entitlement or any part of the entitlement to allowances.
  7. Any person covered by this scheme shall supply on a monthly basis, any claim for travelling and/or subsistence allowances to which they have become entitled during the previous month and details of any other expenses incurred in the performance of their duties as a councillor and for which they have not been reimbursed.
  8. Claims for travelling and subsistence allowances must be made within three months of the end of the month in which they arose failing which the Chief Finance Officer shall refuse to pay them.
  9. As soon as reasonably practicable the Director Legal and Governance shall ensure that the provisions relating to the publicity required for this scheme and for the report of the Independent Remuneration Panel are met.



## **PART 7**

### **GOVERNANCE STRUCTURE**

## **GOVERNANCE STRUCTURE**

### **The Cabinet**

Leader of the Council\*  
Deputy Leader of the Council\*\*  
Cabinet Member for Welfare Services  
Cabinet Member for Community Services  
Cabinet Member for Business Transformation  
Cabinet Member for Planning and Business Enterprise  
Assistant Cabinet Member for Planning

\*also responsible for South Staffordshire Partnership

\*\*also responsible for Regulatory Services

### **The Corporate Leadership Team**

Chief Executive\*  
Corporate Director Communities and Wellbeing  
Corporate Director Infrastructure and Business Growth  
Corporate Director Finance and Resources  
Director Legal & Governance

\*also manages for Partnership Services

### **Statutory Officers**

Head of Paid Service, Electoral Registration Officer and Returning Officer  
- The Chief Executive

Chief Finance Officer for the purpose of Section 151 of the Local Government Act, 1972 –  
Corporate Director Finance and Resources

Monitoring Officer for the purposes of Section 5 of the Local Government and Housing Act,  
1989 –Director Legal & Governance